

Agenda

Extraordinary Planning Committee Meeting

Date: Tuesday, 25 November 2025

Time 7.00 pm

Venue: Council Chamber, Swale House, East Street, Sittingbourne, ME10 3HT

Membership:

Councillors Monique Bonney, Andy Booth (Chair), Hayden Brawn, Ann Cavanagh, Lloyd Chapman, Simon Clark (Vice-Chair), Kieran Golding, James Hunt, Elliott Jayes, Peter MacDonald, Peter Marchington, Claire Martin, Ben J Martin, Julien Speed, Paul Stephen, Terry Thompson and Tony Winckless.

Quorum = 6

Pages

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- (d) Anyone unable to use the stairs should make themselves known during this agenda item.

2. Apologies for Absence

3. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves, their families or friends.

The Chair will ask Members if they have any disclosable pecuniary interests (DPIs) or disclosable non-pecuniary interests (DNPIs) to declare in respect of items on the agenda. Members with a DPI in an item must leave the room for that item and may not participate in the debate or vote.

Aside from disclosable interests, where a fair-minded and informed observer would think there was a real possibility that a Member might be biased or predetermined on an item, the Member should declare this and leave the room while that item is considered.

Members who are in any doubt about interests, bias or predetermination should contact the monitoring officer for advice prior to the meeting.

Part B reports for the Planning Committee to decide

The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services (democraticservices@swale.gov.uk or call 01795 417328) by noon on Monday 24 November 2025.

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Issued on Friday, 14 November 2025

The reports included in Part I of this agenda can be made available in alternative formats. For further information about this service, or to arrange for special facilities to be provided at the meeting, please contact democraticservices@swale.gov.uk. To find out more about the work of this meeting, please visit www.swale.gov.uk.

**Chief Executive, Swale Borough Council,
Swale House, East Street, Sittingbourne, Kent, ME10 3HT**

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SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

25th November 2025

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PART 2 Applications for which permission is recommended

PART 3 Applications for which refusal is recommended

PART 4 Swale Borough Council's own development; observation on County Council's development; observations on development in other districts or by Statutory Undertakers and by Government Departments; and recommendations to the County Council on 'County Matter' applications.

PART 5 Decisions by County Council and the Secretary of State on appeal, reported for information

PART 6 Reports containing "Exempt Information" during the consideration of which it is anticipated that the press and public will be excluded

ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

GPDO The Town and Country Planning (General Permitted Development) (England) Order 2015

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2017

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PART 3

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PLANNING COMMITTEE – 25th November 2025**PART 3**

Report of the Head of Planning

PART 3Applications for which **REFUSAL** is recommended

3.1 REFERENCE NO -- 25/503385/FULL		
PROPOSAL -- Section 73 Application for Variation of conditions 2, 3 and 4 (to allow year-round residential occupancy of caravans for a temporary period until 31 December 2027) pursuant to application SW/12/0114 for Variation of condition 2 of planning permission SW/80/296 to extend the occupancy period to 10 months between 1st March – 2nd January.		
SITE LOCATION -- Pleasant View First Avenue Eastchurch ME12 4ER		
RECOMMENDATION -- Delegate to the Head of Planning to refuse planning permission.		
APPLICATION TYPE -- Full – Section 73.		
REASON FOR REFERRAL TO COMMITTEE -- The Head of Planning considers it to be in the public interest for the application to be determined by the Planning Committee.		
Case Officer – Demetri Prevatt		
WARD Sheppey East	PARISH/TOWN COUNCIL Eastchurch	APPLICANT Kent Holdco Ltd AGENT Laister Planning
DATE REGISTERED – 01/09/2025		TARGET DATE - 01/12/2025
BACKGROUND PAPERS AND INFORMATION:		
- 5061-351 -- Site Location Plan; - Covering Letter -- Prepared by Laister Planning Ltd. (08.08.2025); and - Planning Statement -- Prepared by Laister Planning Ltd. (08.08.2025). The full suite of documents submitted and representations received pursuant to the above application are available via the link below: https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=T0U1N3TYKHW00		

1. SITE LOCATION AND DESCRIPTION

- 1.1. The Pleasant View Caravan Park is a 2.0ha irregular-shaped holiday park located on the northwest side of First Avenue, which is an access road running through the large collection of holiday parks located to the northeast of Eastchurch. The site is situated between Seafields Leisure Park to the northeast and Sunnyside Carvan Park to the southwest. While Shurland Dale Holiday Park (North Site - Formerly Bramley Park) is

located on the other side of First Avenue to the southeast, there is open countryside to the northwest. Pleasant View Caravan Park is comprised of approximately seventy-two (72) caravan plots and is one of the eight (8) individual holiday parks that are controlled by the Applicant and combine to form the larger Kent Parks site.

- 1.2. Kent Parks is comprised of Brookside Leisure Park, Cliff Cottage Chalet Park, Eastchurch Holiday Camp, Elmhurst Caravan Park, Pleasant View Caravan Park, Shurland Dale Holiday Park (North Site - Formerly Bramley Park), Shurland Dale Holiday Park (South Site), and Sunnymead Caravan Park. These eight (8) parks are adjacent to each other and share both ancillary facilities and operation services. The ancillary amenities and facilities include a convenience store (currently closed), children's playgrounds, laundrette facilities, outdoor amenity spaces, office space for the management company, two (2) reception buildings, and two (2) clubhouses with their own arcade, bar, event space, restaurant, and swimming pool.
- 1.3. The Kent Parks site is located to the northeast of Eastchurch outside of the build-up area boundaries of the Tier 4 rural local service centre. It is accessible from the rest of the Isle of Sheppey via Warden Road, which leads to an internal road network comprised of First, Second, Third and Fourth Avenues. Some of the properties neighbouring the site are residential in nature, some are agricultural units or open countryside, with the northeast coastline being within walking distance to the north. The site's proximity to the coastline means that parts of the Kent Parks site is within the Coastal Change Management Area and Erosion Zone 2, but the designated area does not include this site.
- 1.4. The entire Kent Parks site is located within the impact risk zones of both the Sheppey Cliffs and Foreshore Sites of Special Scientific Interest (SSSI) and the Swale SSSI. Similarly, the site is within the 6.0km buffer zones of the Swale RAMSAR site and Special Protect Area (SPA), as well as the 6.0km buffer zone of the Outer Thames Estuary SPA.
- 1.5. In regard to other relevant planning constraints, the entire Kent Parks site is located within an area safeguarded for Brickearth. While it is also situated within Flood Zone 1, only parts of the site are considered to be at high risk of Surface Water flooding by the Environment Agency.
- 1.6. The list provided below notes the planning constraints for the Pleasant View Caravan Park.
 - Area of Archaeological Protection: Fletcher Battery (Nearby to North)
 - Agricultural Land Classification: Grade 3
 - Built-Up Area Boundary: Outside
 - Flood Risk - Surface Water: High
 - Flood Zone: 1
 - Grade II* Listed Building: Shurland Castle
 - Grade II Listed Buildings: Connetts, Fletcher Battery, and Trouts (Nearby)
 - Great Crested Newt: Amber Zone

- Great Crested Newt: Green Zone
- Holiday Park: Within
- KMWLP - Safeguarded Area: Brickearth Swale Areas
- Lower Medway Internal Drainage Board
- National Character Area: Greater Thames Estuary
- Public Footpath: ZS25
- Rural Lane: Near to
- The Medway Estuary and Marshes RAMSAR Site: Within Zone of Influence
- The Medway Estuary and Marshes SPA: Within Zone of Influence
- The Outer Thames Estuary SPA: Within 6.0km Buffer Zone
- The Sheppey Cliffs and Foreshore SSSI Risk Zone: Within
- The Swale RAMSAR Site: Within 6.0km Buffer Zone
- The Swale SPA: Within 6.0km Buffer Zone
- The Swale SSSI Risk Zone: Within

2. PLANNING HISTORY

- 2.1. SW/12/0114 -- Variation of condition 2 of planning permission SW/80/296 to extend the occupancy period to 10 months between 1st March - 2nd January.

Conditionally Granted -- 04.04.2012.

- 2.2. SW/00/0166 - Wardens dwelling (to replace ex-mobile home).

Conditionally Granted

- 2.3. SW/93/0926 – Wardens Bungalow.

Conditionally Granted

- 2.4. SW/80/296

Conditionally Granted

Other Relevant Applications and Appeal Decisions

- 2.5. Whilst it is essential that all cases are considered on their own merits, it is also appropriate for Local Planning Authorities to act consistently and have regard to the outcome of other appeals as material considerations, particularly where it might inform the manner in which policies are interpreted and applied. Other comparable applications and appeals relating to the use of holiday parks on a year-round basis received since January 2020 include the following:

- 2.6. Beverley Camp, Warden Road, Eastchurch.

Application 22/505778/FULL – Refused

Retrospective application for change of use from a holiday park (10 months occupancy) for the siting of 21no. residential retirement park homes for use all year round.

2.7. Shurland Dale Holiday Park, Warden Road, Eastchurch

20/505317/FULL – Refused

Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1525, to allow the caravan park to open/be occupied for 12 months per year as a holiday park.

20/505304/FULL – Refused

Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1042, to allow the caravan park to open/be occupied for 12 months per year as a holiday park.

2.8. Vanity Farm Camp, Leysdown Road, Leysdown

Application 22/505752/FULL – Refused

Section 73 - Application for variation of condition 2 (to allow use of the holiday park on a year-round basis) pursuant to SW/11/1608 for - Variation of condition (i) of planning permission NK/8/50/51 to allow occupation of the site for 10 months (1st March to 2nd January).

Appeal APP/V2255/W/24/3356382 – Dismissed

Application 21/505773/FULL - Approved

Section 73 - Application for a temporary variation of condition 2 (occupancy restriction) pursuant to application SW/11/1608, to allow occupancy of the chalet/caravans from the 02/01/2022 to 28/02/2022 (after which the park will revert back to a 10 month occupancy restriction).

Applications 20/505526/FULL, 20/503803/FULL and 20/502453/FULL approved a similar temporary permission at individual units 1, 85, 77 Vanity Farm Camp.

A similar temporary variation was approved at land adjoining Vanity Farm and now part of Harts Park under the terms of application 21/505699/FULL and a further application at Harts Park for a similar temporary change was approved under 21/505692/FULL.

2.9. Brookside Park, First Avenue, Eastchurch, Sheppey

Application 20/504175/FULL – Refused

Section 73 application to permit permanent year round residential use of caravans - removal of conditions 2 (occupancy restriction) and condition 3 (occupancy restriction) imposed on planning permission reference SW/11/1521

Appeal APP/V2255/W/21/3274740 – Dismissed.

2.10. Golden Leas Holiday Park, Bell Farm Lane, Minster on Sea

Application 20/503267/FULL – Refused

Section 73 application to vary condition 2 of planning permission ref SW/11/1588 to permit permanent year round residential use of 20no. caravans (age restricted to over 55s) as identified by drawing no. 4348-510 (The remainder of the site to continue in use for the stationing of caravans as holiday accommodation and for a maximum 10 month period each year).

Appeal APP/V2255/W/21/3279116 – Dismissed.

2.11. Estuary View Caravan Park, Bell Farm Lane, Minster on Sea

Application 20/503268/FULL – Refused

Section 73 - Application to permit permanent year round residential use of caravans - Removal of Conditions 2 (occupancy restriction), 3 (occupancy restriction) and 4 (compliance with schedule of requirements) imposed on planning permission reference SW/12/0195.

Appeal APP/V2255/W/21/3279125 - Dismissed

2.12. Ives Holiday Camp, Park Avenue, Leysdown

Application 20/502813/FULL – Refused.

Section 73 - Application to permit permanent year round residential use of caravans - removal of condition 2 (occupancy restriction), 3 (occupancy restriction) and 4 (occupancy restriction) imposed on planning permission 19/502752/FULL for retention of existing dwelling and change of use of land to a holiday caravan park.

2.13. Plough Leisure Caravan Park, Plough Road, Minster on Sea

Application 20/502811/FULL – Refused

Section 73 - Application to permit permanent year round residential use of caravans (age restricted to over 55s) for the land outlined in red on plan PL-LOC - removal of condition 2 (occupancy restriction), 3 (occupancy restriction) and 4 (occupancy restriction) imposed on planning permission SW/12/0024

Appeal APP/V2255/W/21/3277288 – Dismissed

20/505401/FULL – Approved

Section 73 - Application for a temporary variation of condition 2 (occupancy restriction) pursuant to application SW/12/0024, to allow occupancy of the caravans and chalets on the park during January and February 2021 (after which the park will revert back to a 10 month holiday occupancy restriction).

2.14. Hollybush Farm Caravan Park, Oak Lane, Minster-on-sea

22/500510/FULL – Approved

Section 73 - Application for temporary variation of condition 2 (occupancy restriction) pursuant to application SW/11/1587, to allow occupancy of the chalets/caravans from the 02/01/2022 to 28/02/2022 (after which the park will revert back to a 10-month occupancy restriction).

2.15. Sheerness Holiday Park, Halfway Road, Minster-on-sea

21/506564/FULL – Refused

Section 73 - application for Variation of condition 2 (occupancy restriction) of SW/12/0080 to allow the caravan park to open/be occupied for 12 months per year as a holiday park. (Resubmission of 20/505387/FULL).

As detailed in the description, similar application 20/505387/FULL was refused.

2.16. Central Beach Caravan Park, Grove Avenue, Leysdown

21/506563/FULL – Refused

Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1522, to allow the caravan park to open/be occupied for 12 months per year as a holiday park. (Resubmission of 20/505388/FULL).

2.17. Ashcroft Caravan Park, Plough Road, Eastchurch

21/506558/FULL – Refused

Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1044, to allow the caravan park to open/be occupied for 12 months per year as a holiday park. (Resubmission of 20/505316/FULL).

As detailed in the description, similar application 20/505316/FULL was refused.

2.18. Seafields Caravan Park, First Avenue, Eastchurch

21/506426/FULL – Approved

Section 73 - Application for variation of condition 2 (occupancy restriction) pursuant to application SW/11/1284, to allow the caravan park to open/occupied for additional 2 months in 2022 (January and February) on a temporary basis.

2.19. Copperfield Holiday Park, Fourth Avenue, Eastchurch

20/505905/FULL – Approved

Section 73 - Application for a temporary variation of condition 2 (occupancy restriction) pursuant to application SW/11/1432, to allow occupancy of the caravans and chalets on the park during January and February 2021 (after which the park will revert back to a 10 month holiday occupancy restriction).

3. PROPOSED DEVELOPMENT

- 3.1. The application, submitted under the terms of Section 73 of the Town and Country Planning Act, is seeking an amendment to the conditions imposed on Planning Permission ref. SW/12/0114 which granted permission for “Variation of condition 2 of

planning permission SW/80/296 to extend the occupancy period to 10 months between 1st March – 2nd January”.

- 3.2. The amendment would temporarily enable year-round occupation of the caravans located within the holiday park for a period ending on 31.12.2027 and enable a relaxation of the nature of the occupation, through the re-wording of Conditions 2, 3 and 4.
- 3.3. Since the amendment would only affect the occupancy allowed by the extant Planning Permission and its conditions, no physical alterations or amended drawings are required. The only changes would be to the relevant existing conditions that are copied below.

Condition 2 -- Allowable Period of Occupation

No caravans shall be occupied except between 1st March and 2nd January in the following calendar year, and no caravan shall be occupied unless there is a signed agreement between the owners or operators of the Park and all caravan owners within the application site, stating that:

- a) The caravans are to be used for holiday and recreational use only and shall not be occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence; and
- b) No caravans shall be used as a postal address; and
- c) No caravan shall be used as a residence for registering, claiming or receipt of any state benefit; and
- d) No caravan shall be occupied in any manner, which shall or may cause the occupation thereof, to be or become a protected tenancy within the meaning of the Rent Acts 1968 and 1974; and
- e) If any caravan owner is in breach of the above clauses their agreement will be terminated and/or not renewed upon the next expiry of their current lease or licence.

On request, copies of the signed agreement[s] shall be provided to the Local Planning Authority.

Grounds: In order to prevent the caravans from being used as a permanent place of residence, an in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.

Condition 3 -- Signed Agreement

Any caravan that is not the subject of a signed agreement pursuant to Condition 2 shall not be occupied at any time.

Grounds: In order to prevent the caravans from being used as a permanent place of residence, an in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.

Condition 4 -- Operation Management

The owners or operators of the Park shall at all times operate the Park strictly in accordance with the terms of the Schedule appended to this decision notice.

Grounds: In order to prevent the caravans from being used as a permanent place of residence, an in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.

Schedule

The park operator must:

1. Ensure that all chalet users have a current signed agreement covering points (a) to (e) in condition 2 of the planning permission; and
2. Hold copies of documented evidence of the caravan users main residence and their identity; this may comprise of utility bills, Council Tax bill, passport, driving licence or similar document; and
3. On request, provide copies of the signed agreement[s] to the Local Planning Authority; and
4. Require chalet users to provide new documentation if they change their main residence; and
5. Send all written communications to the main residence of the chalet user; and
6. Not allow postal deliveries to the caravan or accept post on behalf of the chalet users at the park office; and
7. Ensure that each chalet is to be used for holiday use only and that no chalet is occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence, of the user or occupant; and
8. Adhere to a code of practice as good as or better than that published by the British Homes and Holiday Parks Association.

4. **REPRESENTATIONS**

- 4.1. A single round of consultation has been undertaken, during which letters were sent to neighbouring occupiers. A notice was displayed at the application site and the application was advertised in the local newspaper. Full details of representations are available online.
- 4.2. Eastchurch Parish Council strongly objected to the application on the following grounds:

Comments	Report reference
Applications comparable to this have consistently been resisted including one from 1979.	See Section 2 above. The cited 1979 refusal related to a site with a different name and it has not been possible to correlate that site with any of the current application sites. It is not considered to be of substantial relevance given the time that has passed.
The countryside location, the liability to flooding and the unsuitability of caravans for permanent use have all been reasons for the above resistance.	See Sections 7.1.12, 7.1.38 and 7.7.
Unsustainable location in rural area with limited services, forcing reliance on private transport, contrary to the NPPF (paragraphs 7 to 11)	See Paragraph 7.1.12
Risk of Flooding contrary to the NPPF (paragraphs 159-169)	See Section 7.7.
Temporary Permission not justified, contrary to the NPPF (paragraph 55)	Discussed throughout the remainder of the report.
Conflict with Policies ST3, DM6, DM14 and DM21 of the local plan.	Regard has been had to the policies of the local plan throughout the below assessment.
A precedent would be set for other holiday parks leading to infrastructure strain and an undermining of the local plan.	Any future application would be considered on its own merits. Infrastructure is addressed at paragraph 7.8.2.
A formal site visit is requested.	Officers have visited the site.

5. CONSULTATIONS

5.1. There has been one (1) round of consultation for consultees

5.2. **KCC Highways** -- No Comments.

5.3. **KCC Flood and Water Management** -- No Comments.

5.4. **KCC Ecological Advice Service (KCC EAS)** -- No objection on the condition that the Applicant provides a proportional financial contribution to the SAMMS.

- 5.5. **KCC Public Rights of Way (PROW)** -- No Comments.
- 5.6. **SBC Housing** -- The Housing team has engaged regularly with representatives from Kent Parks, who have provided information indicating that a number of occupants are residing in the holiday parks as their permanent homes. This is in breach of the existing planning consents, which they have acknowledged and have sought to work with the Council to resolve the issue. It remains unclear whether the accommodation on these sites meets the standards required under the Mobile Homes Act, and therefore may not be suitable for permanent residential use.
- In response to the ongoing issues, the Council's Homelessness Prevention Team has conducted on-site drop-in surgeries to offer advice and support to residents at risk of homelessness.
- Historically, the annual closure of caravan parks across the Isle of Sheppey has led to a notable increase in demand for Housing Options services. In the previous year, 55 households approached the Housing Options team due to caravan park closures. Of these, 12 households were specifically from Kent Parks sites. So far this year, 23 households have approached the service. Of these, 11 households were specifically from Kent Parks sites. It is important to note that this year's figures are likely to rise as we approach the winter period, when park closures typically peak.
- Should this level of presentation continue or increase, it would place significant pressure on the Housing Options service to deliver statutory duties, including the provision of advice, assessments, and sourcing suitable accommodation. This would also result in substantial financial implications for the Council, particularly in relation to the cost of temporary accommodation.
- 5.7. **Mid-Kent Environmental Protection** -- No comments.
- 5.8. **Environment Agency (EA)** -- No Comments.
- 5.9. **Natural England (NE)** -- Providing that the appropriate assessment concludes that the measures can be secured[with sufficient certainty] as planning conditions or obligations by your authority ,and providing that there are no other likely significant effects identified (on this or other protected sites) which require consideration by way of appropriate assessment, Natural England is likely to be satisfied that your appropriate assessments will be able to ascertain with sufficient certainty that there will be no adverse effect on the integrity of the European Site from recreational pressure in view of the site's conservation objectives. In this scenario, Natural England is unlikely to have further comment regarding the Appropriate Assessment, in relation to recreational disturbance.
- 5.10. **Lower Medway Internal Drainage Board (LMIDB)** -- No Comments.
- 5.11. **Southern Water** -- No objections.
- 5.12. **Kent Police** -- No Comments (Outside of Scope)

- 5.13. **SBC Economy and Regeneration Team** -- The Economy and Regeneration team are ordinarily supportive of all tourism related developments in the borough. However, the application to extend the occupation months at the holiday parks in question, would lead to a loss of income generated by visitors to the island in both high and low seasons. It will also reduce the variety of accommodation available for visitors to choose from as many of the caravans will default to being full time residential properties. There is limited accommodation of the same type, on offer elsewhere in the borough and it would therefore be beneficial to maintain the holiday stock available on the Isle of Sheppey.

6. DEVELOPMENT PLAN POLICIES

Bearing Fruits 2031: The Swale Borough Council Local Plan 2017 (the Local Plan)

ST1 Delivering sustainable development in Swale
 ST2 Development targets for jobs and homes 2014-2031
 ST3 The Swale settlement strategy
 ST4 Meeting the Local Plan development targets
 ST6 The Isle of Sheppey area strategy
 CP1 Building a strong, competitive economy
 CP2 Promoting sustainable development
 CP3 Delivering a wide choice of high quality homes
 CP4 Requiring good design
 CP5 Health and wellbeing
 CP6 Community facilities and services to meet local needs
 CP8 Conserving and enhancing the historic environment
 DM3 The rural economy
 DM4 New holiday parks or extensions to existing parks
 DM5 The occupancy of holiday parks
 DM6 Managing transport demand and impact
 DM7 Vehicle parking
 DM14 General development criteria
 DM19 Sustainable design and construction
 DM21 Water, flooding and drainage
 DM26 Rural Lanes
 DM28 Biodiversity and geological conservation
 DM32 Development involving listed buildings

Supplementary Planning Guidance/Documents -

Landscape Character Assessment and Biodiversity Appraisal (LCA&BA), 2011.
 Parking Standard Supplementary Planning Document, 2020.
 Air Quality and Planning Technical Guidance, 2024.
 Strategic Access Management and Monitoring Strategy (SAMMS), 2014

National Planning Policy Framework (the NPPF)

National Planning Practice Guidance (NPPG)

Kent Mineral and Waste Local Plan 2024-39 (KM&WLP), 2025 & the Kent Mineral Sites Plan (KMSP), 2020.

7. ASSESSMENT

The main considerations involved in the assessment of the application are:

- Principle
- Heritage
- Ecology
- Transport and Highways
- Air Quality
- Impact of Additional Activity on Living Conditions and Countryside Tranquillity
- Other Matters

7.1. **Principle**

- 7.1.1. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.
- 7.1.2. The NPPF provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.

Terms of Application

- 7.1.3. The application has sought the variation of conditions 2, 3 and 4 to enable their relaxation for a 2 year period. Depending on the approach that is taken, conditions could be imposed to either make the effect of any permission temporary or the conditions could be varied to set out the limitations that exist for two years and the conditions that would then be applicable thereafter.
- 7.1.4. In the event that the complete relaxation of conditions 2, 3 and 4 for a two year period is not found to be acceptable, consideration should be had to whether alternative conditions could be imposed to make a development acceptable. In this regard, it is noted that paragraph 4.3 of the applicant's Planning Statement sets out that they would be happy to discuss limitations relating to the number of caravans that are able to be occupied, the new and varied occupancy periods and leasing/licensing arrangements. An assessment will be made in relation to the entire relaxation of the conditions for a two year period and the potential to impose alternative conditions.

Development Plan – Settlement Strategy

- 7.1.5. Policy ST1 states that development proposals will accord with the Local Plan Settlement Strategy. The site is located outside the built-up area boundaries that exist within the Swale Borough.
- 7.1.6. The Settlement Strategy is set out at Policy ST3 and, as far as it is relevant to this application, it states that “At locations in the open countryside, outside the built-up area boundaries shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.”
- 7.1.7. The part of the exception that relates to the NPPF can be considered further below but, regardless of any conclusion that is reached in that respect, for reasons that will be set out below, the proposal would not enhance “the intrinsic value, *landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities*”. Therefore, the proposal is contrary to the Settlement Strategy.
- 7.1.8. Policy CP2 states that “*new development will be located in accordance with Policy ST1 to Policy ST7....which minimise the need to travel for employment and services and facilitate sustainable transport.*” The site is located outside the settlement boundary and does not accord with Policy ST1 and ST3 as set out above. Whilst there is no new built development, the altered usage of the site would be new and, as such, the policy CP2 is considered to be applicable and conflicted with.
- 7.1.9. Policy CP4 states that development should “*make safe connections physically and visually both to and within developments, particularly through using landscape design and open space to retain and create green corridors for pedestrians, cyclists and biodiversity.*” Policy CP2 also states that development should “*achieve alternative access to all services through promoting access to sustainable forms of transport particularly bus, cycling and rail transport and improving interchange between them from the earliest stages of development.*”
- 7.1.10. Policy DM6 requires that “developments demonstrate that opportunities for sustainable transport modes have been taken up.” It also states that “*The location, design and layout of development proposals will demonstrate that priority is given to the needs of pedestrians and cyclists, including the disabled, through the provision of safe routes which minimise cyclist/pedestrian and traffic conflict within the site and which connect to local services and facilities [and that] access to public transport is integrated into site design and layout where appropriate.*”
- 7.1.11. Policy DM14 states that development will “*Achieve safe vehicular access, convenient routes and facilities for pedestrians and cyclists, enhanced public transport facilities and services.*”

- 7.1.12. The site is distant from the nearest bus stops and the site is remote from Eastchurch which is served by limited facilities for residents. From this basis, whilst there is a limited level of access to public transport, those connections are distant and provide a service of limited coverage. Whilst occupiers of the site might cycle, services would be limited and/or distant from the site and, therefore, are unlikely to be regularly cycled to. Therefore, it is considered inevitable that the majority of people at the site will be reliant on private modes of transport. This is true for lawful tourism users of the site and year-round occupiers of the site. However, it is considered that residents would have a different travel pattern and, as such, residential uses should be directed to sites better served by services and facilities capable of meeting their day-to-day needs. Whilst noting the difference between this temporary application and other applications being for the permanent relaxation of the conditions, this finding is consistent with other recent appeal decisions within the vicinity and it is considered that the conflict with the abovementioned policies would arise whether the use is permanent or temporary.

Development Plan – Holiday Parks

- 7.1.13. The site is allocated in the Local Plan Proposals Map as a Holiday Park. Policy DM4 addresses the provision of new holiday parks, the extension of holiday parks and the provision of new or improved facilities within holiday parks. The content of that policy is not considered to be instructive for the assessment of this application. However, the pre-amble to that policy provides some context for the consideration of applications related to holiday parks, stressing that a core principle of the NPPF is to proactively drive and support sustainable economic development. It goes on to state that *“Holiday parks provide direct employment and their users support shops, pubs, restaurants and visitor attractions. There can also be other social benefits in that they give work in areas where little alternative employment exists. The changing nature and flexibility of the leisure market and the higher aspirations of customers today are leading to leisure providers continually developing new concepts to respond to consumer needs and aspirations.”*
- 7.1.14. Local Plan Policy DM5 addresses the occupancy of holiday parks and reads as follows:

In order to ensure a sustainable pattern of development and to protect the character of the countryside, planning permission will not be granted for the permanent occupancy of caravans and chalets. Where it can be demonstrated that higher quality standards of holiday accommodation can be secured, planning permission will be granted for proposals to extend the occupancy of holiday parks between 1 March and 2 January the following year (a 10 month occupancy), provided that:

- 1. The site is not at risk of flooding, unless, exceptionally, applications accompanied by a Flood Risk Assessment (FRA) satisfactorily demonstrating that the proposal would result in no greater risk to life or property and where an appropriate flood evacuation plan would be put in place;*
- 2. The amenity and tranquillity of the countryside and residential areas are safeguarded;*

3. *The proposals are in accordance with Policies DM 22 and DM 23 relating to the coast and the coastal change management area; and*
4. *Where located adjacent or in close proximity to the Special Protection Areas (SPA), an assessment has been undertaken to determine the level of disturbance to over-wintering birds and identified mitigation measures, where appropriate.*
5. *The extension of occupancy is subject to planning conditions safeguarding the holiday accommodation from being used as sole or main residences, as set out in Appendix 2.*

- 7.1.15. The pre-amble to the policy highlights the history of most of the holiday parks, noting that 8 month (and eleven days at Christmas and New Year) occupancy restrictions existed in most cases. The supporting text indicates that *“the limited occupancy period was imposed to ensure that these holiday parks were not used as permanent (and sometimes sub-standard) housing (many of which would be in poorly accessible parts of the Borough) and to protect the character of the rural area. Limited occupation also afforded the opportunity to retain a period of tranquillity in rural and other areas. In areas at risk of flooding, permanent occupation over the winter period could also result in risk to life.”*
- 7.1.16. The supporting text highlighted that *“to give more scope and incentive to enable modernisation and upgrading to take place, the Council considers that there will be occasions when a 10 month occupancy period will be acceptable, which will, in turn, deliver tourism benefits and support for the local economy.”* It goes on to state that Policy DM5 sets out the parameters within which applications to extend occupancy of holiday parks to a 10 month period will be permitted before stating that *“Permanent occupation will continue to be resisted.”*

Condition 2 – Occupancy Period.

- 7.1.17. This application does not seek the permanent occupancy of the accommodation at the site as the year round occupancy is proposed for a temporary period of 2 years. From this basis, the effect of the application would not be directly contrary to the first sentence of Policy DM5 as it has been written.
- 7.1.18. However, the application would enable the extension of the occupancy period that is defined in the remainder of the first part of Policy DM5. The policy should be read in the context of the history of the holiday park sites and the earlier iterations of the development plan which imposed an 8 month (plus 11 days at Christmas and New Year in some cases) occupancy limitation. Paragraph 7.1.27 of the Local Plan states that *“to give more scope and incentive to enable modernisation and upgrading to take place, the Council considers that there will be occasions when a 10 month occupancy period will be acceptable.”* Whilst the Policy allowed for an increased occupancy period up to 10 months, subject to conditions, there is no indication that this would be able to be extended to 12 months in any circumstances, on a temporary or permanent basis.

- 7.1.19. From this basis, the proposed relaxation of the condition to enable year round occupation, albeit only for two years, would be contrary to the objectives of Policy DM5. Having regard to the potential to impose alternative conditions, any occupancy exceeding 10 months would be contrary to the aim of the policy. It is clear from the application submissions that the intention is to enable occupiers to be resident at the site on a year round basis and, therefore, any mid-ground occupancy period would be contrary to the intentions of the applicant.

Conditions 2, 3 and 4 – Main Residence Restriction and Record Keeping.

- 7.1.20. Turning to the criteria that are set out within Policy DM5, it is considered relevant that the assessment of these matters is only applicable in the context of the abovementioned occupancy limitation being complied with. Notwithstanding this, the criteria give a direction as to the key material considerations for this application. The matters addressed by criteria 1 to 4 of Policy DM5 are addressed in the relevant sections below.
- 7.1.21. For reasons that will be set out below, the variation of conditions in effect at the site would cause the use of the site to conflict with Criteria 2. There would be a technical conflict with Criteria 1 as the site is at very low risk of surface water flooding but, for the reasons also set out below, it is considered that no objection should be raised to the application on the grounds of flood risk as no harm would arise. In relation to Criteria 4, there is grounds to object where no mitigation provisions are secured but it is expected that this would be able to be resolved. Again, this will be considered further below.
- 7.1.22. With respect to Criteria 3, the site is outside the coastal erosion zone and the Coastal Change Management area. Therefore, no objection is raised on those grounds.
- 7.1.23. In respect of Criteria 5, the planning conditions set out at Appendix 2 of the Local Plan are fundamentally the same as appear within existing conditions 2, 3 and 4 that currently apply to the permitted use at the site, as detailed above. The application seeks to vary these conditions. By varying these conditions, the development would no longer accord with Policy DM5 and the limitations that are fundamental to holiday parks to benefit from 10 month occupancy periods. Consequently, an application to use the site without complying with those conditions is in conflict with Policy DM5.
- 7.1.24. Amongst other relaxations, the primary effect of this would be to enable the accommodation at the site to be used as a person's primary residence. This is corroborated by the Applicant's Planning Statement which states that many of the existing occupants do not have an alternative permanent address and would be made homeless if the application site was made uninhabitable during the two-month closed season. This means that these caravans are the sole residence for these occupants and the relaxation of the subject conditions and year-round occupation of these sole residences would constitute their operation, for a two-year period, as dwellings rather than as tourist accommodation. This is entirely contrary to the designation of the site within a holiday park and the associated policies that are discussed above.

Temporary Effect of Variation

- 7.1.25. The application seeks the relaxation of conditions for a temporary period and, as such, the application is considered to be seeking what is tantamount to a temporary planning permission, which is enabled by Section 72 of the Act. Planning Practice Guidance states that *“Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period.”*
- 7.1.26. The application is not being advanced as a ‘trial run.’ The case of the applicant is that planning circumstances might change at the end of the proposed two year period as they are seeking to advance proposals to develop the site. This is evidenced by virtue of a Screening Opinion (25/504264/ENVSCR) which has been sought for the development of this site, along with other land that is within the applicant’s control and is referenced in the planning history section above. This has been referred to as a “meanwhile use” by the applicant which is described in the Planning Practice Guidance as a temporary use of vacant land or buildings prior to any longer term proposals coming forward. The site is not vacant and so this is not directly relevant. However, whichever element of the PPG is drawn from, it is the case of the applicant that the proposal should be considered as a temporary situation until a permanent re-development of the site is brought forward.
- 7.1.27. At this stage, there can be no guarantee that the re-development of the site in the manner described would be granted planning permission. Whereas a ‘meanwhile use’ might be beneficial by bringing activity to a site that is vacant, that benefit would not arise here as, if not approved, the site would retain its lawful use and caravans would continue to be kept at the site. Conversely, putting the site to use outside the period that is defined by conditions would actively derive harm as a result of the impact on tranquillity that will be considered further below. From this basis, it is considered that negligible or very limited weight should be given to the suggestion that an alternative development might replace the existing or amended situation in the future and that no benefit would arise from the ‘meanwhile use’ of the site that is suggested by the applicant.

Number of Caravans Affected

- 7.1.28. The applicant’s submissions have addressed this application along with the other adjacent sites that are within their control. As such, site specific details are difficult to ascertain. However, it is indicated at paragraph 3.5 of the applicant’s submissions that there is a capacity of approximately 1197 units at the overall land holding and at least 200 of them have been occupied in breach of the abovementioned conditions. It is understood that the sites within the applicant’s control are not the only holiday parks where a breach of condition has taken place.
- 7.1.29. Should this and the other concurrent applications be allowed in the broadest of terms, all of the units would be able to be occupied throughout the prescribed period. This

would far exceed any need to accommodate a number of the occupiers of the 200 or so caravans that have been indicated to have been occupied in breach of the restrictions previously. To allow the relaxation of the conditions for all of the caravans would not only address the existing breach that has occurred but potentially give rise to a far increased level of occupancy that would present greater issues at the end of the temporary period than would otherwise be the case. Unless precision was included in relation to the number of caravans occupied, the site could attract occupiers from other sites. That might be of benefit to enabling other sites to comply with their conditions, but it could increase the number of residents at the applicant's holding who, in 2 years time, might have an even greater expectation of being allowed to stay at the site year-round.

- 7.1.30. It is noted within the applicant's submissions that they would be willing to discuss conditions, including a condition that could restrict the number of caravans that can be occupied. Such a discussion has not occurred. However, if minded to approve, it would be necessary to discuss the number of caravans that can be occupied on this site and attempt to imbed that into a condition that meets the applicable tests. Such a condition could also attempt to secure a lower number in the second year to give the Council comfort that the applicant is working towards reducing the number of persons that occupy the site in breach of the planning conditions.
- 7.1.31. However, enforcing such a condition would be riddled with difficulties, particularly on a caravan site where (notwithstanding the comments of the applicant that many of the caravans would not be able to be moved without being damaged) should be capable of being moved. Whereas a blanket restriction on occupation is enforceable, identifying which caravans are occupied and which are not, would be inherently difficult if not virtually impossible. For example, if a limit was reached, how would a person attempting to enforce that limit know which caravan should be enforced against. A plan would be required to specifically identify which caravans would be occupied but no such plan has been submitted and there is no current way available to be able to identify specific caravans.

Housing Supply

- 7.1.32. Swale Borough Council cannot demonstrate a five year housing land supply. Therefore, where a proposal relates to the provision of housing, the approach set out at paragraph 11d) of the NPPF is applicable.
- 7.1.33. Setting aside the conflict with the development plan, caravans in C3 use are able to count towards Housing Supply, and the use of the site as housing could count towards the supply of housing within the Borough. Depending on the approach taken to the number of caravans that the relaxation would apply to, this could be any number up to 1,197 units across the applicant's overall holding, of which 72 units are at this site. However, this 'supply' would only exist for 2 years and, as it would have to be discounted within the same assessment period, such temporary accommodation is not counted in the Council's 5 year housing land supply.

- 7.1.34. It is considered that a temporary housing supply boost can only be given limited weight as a planning benefit. It is not effectively addressing any housing shortfall as that shortfall would return in 2 years and it is not considered that caravan accommodation, which the applicant recognises is in poor condition, is a sustainable solution to addressing housing needs. It is recognised that a need is derived from the historic breaches of the conditions at the site and that the NPPF indicates that a sufficient amount and variety of land should come forward for housing, where it is needed and that the needs of groups with specific housing requirements are addressed.
- 7.1.35. The applicant identifies that the site and the wider land holding has been used to accommodate people on a year-round basis. This has been in breach of the abovementioned conditions and could be liable to enforcement action. This has created a situation where year-round occupiers are present and reliant on the accommodation. To refuse this application would result in it continuing to be the case that year round occupation would be in conflict with the abovementioned conditions and a breach of planning control, with harms that are identified elsewhere in this report. It is therefore considered that the future 'need' for housing that has been generated by the past breaching of planning conditions at the site needs to be weighed against the harms and conflict with national and local planning policies.
- 7.1.36. The applicant has indicated that occupiers would be made to leave the site from January 2026. Some of those occupiers might have no alternative accommodation available and, as such, could present themselves to the Council as homeless. The needs of the local population should be a material consideration and will be considered. The duty on the Council to accommodate any persons that are caused to be homeless could create considerable difficulties for the Council and it is a key component of the applicant's case that allowing the application would avoid implications for other services of the Council, primarily the Council's Housing Team who would potentially see a sharp increase in demand, with the cost and labour implications.
- 7.1.37. In this regard, it is considered relevant that the Council is not hereby deciding whether or not to serve a Planning Enforcement Notice or a Breach of Condition Notice at the site. The decision of the applicant to comply with planning conditions if this application is refused, which should be a fundamental requirement, would be a decision for the applicant. The problem that may or is likely to exist around persons being homeless is a consequence of the unlawful occupation of the site that is understood to have been enabled by the applicant's predecessors. Accommodating people that might not have alternative accommodation can be viewed as a benefit of granting planning permission. However, this could also be achieved by not enforcing the conditions or by the chosen form of enforcement.
- 7.1.38. A factor that is considered to be important to this assessment is the quality of the accommodation at the site. The pre-amble to Policies DM4 and DM5 identify that some of the Borough's accommodation of this type is of poor quality and in need of improvement. Consistent with this, the applicant's own Planning Statement sets out that some of the accommodation at the site is of poor quality, with their submission

stating that the caravans are old and liable to break if moved. In the absence of any form of detailed assessment of the quality of the accommodation, it is considered appropriate to give weight to a visual inspection of the site which suggests that much of the accommodation is not likely to accord to modern standards. Whilst it is expected that occupiers will value this accommodation and it is noted that reference has been made to the existence of a community spirit at the site and the holding in general, it is considered that the reliance on living accommodation that might not accord with modern standards should not be considered to be sustainable. In this regard and giving consideration to the potential to use a condition that limits the number of caravans, there is no evidence available to suggest whether those residents in the greatest need would have access to the best-kept caravans or those at the other end of the quality and maintenance range.

- 7.1.39. The proposal being a ‘meanwhile use’ is considered to weigh against the suggestion that the proposal would address a homelessness situation from occurring. It is acknowledged that the temporary availability of accommodation could provide a short-term solution to the existing hidden homelessness. However, it is integral to this that the applicant intends to bring the current situation to an end and re-develop the site. This would not address the situation in the medium term and, whilst occupiers would have a 2 year opportunity to find alternative accommodation, they would equally have 2 years to become more imbedded at the site and, potentially, develop a hope or expectation that a further year round occupancy will be provided in the future. There can be no certainty that the future proposals at the site would (or would not) be available to the current occupiers at the site and therefore, even noting that the temporary permission would afford those residents additional time to find alternative accommodation, it is likely that they would have to leave the site in due course in any case. Whilst a relocation management plan to guide occupiers to suitable accommodation prior to the end of the temporary period might have been able to be explored and been the subject of a condition, it is considered that there could be little comfort or certainty that such a plan would be effective and, in the circumstances that have been detailed by the applicant, it is not clear how a phased reduction of occupiers at the site would be able to be achieved. The proposal would be as likely to postpone any problems rather than address them.

Tourism and Economic Development Considerations.

- 7.1.40. Policy CP1 of the Local Plan seeks to safeguard or enhance Swale’s ‘Principal Tourism Assets’ and to consolidate or widen the tourism potential of the borough. Holiday parks are listed under the borough’s ‘Principal Tourism Assets’ and the supporting text sets out that these should be protected from inappropriate development. Policy ST6 seeks to support the existing tourism offer on the Isle of Sheppey and the supporting text to this policy emphasises the importance of tourism to the economy of the Isle of Sheppey. Policy DM3 promotes rural tourism and makes clear that residential development should not be permitted at the expense of rural employment. The supporting text to policy DM4 states that holiday parks provide direct employment and support shops, pubs, restaurants and visitor attractions.

- 7.1.41. Whilst the comments of the applicant relating to the manner in which the site has not operated as a conventional holiday destination are noted, to formally change the use of the site (even for a temporary period) would compound the loss of holiday accommodation and reduce the tourism offer that exists and is of significance to the local economy. This would be contrary to the above policies that seek to safeguard and enhance tourism and to prevent the use of holiday parks as a person's main residence.
- 7.1.42. No detailed information has been provided to demonstrate why the accommodation is not suitable for holiday use and there is no evidence that demonstrates insurmountable difficulties to use the units as holiday accommodation. The residential use of the site would undermine the clear strategies in the adopted local plan to promote and increase the tourism offer in the borough and on the Isle of Sheppey, where tourism plays a vital role in the local economy. In this regard the change of use is contrary to policies CP1, ST6, DM3, DM4 and DM5 of the Local Plan.
- 7.1.43. It is considered that these policies are consistent with the NPPF as paragraph 88 of that document states that planning decisions should enable “...*the sustainable growth and expansion of all types of business in rural areas and sustainable rural tourism and leisure developments which respect the character of the countryside*”.

Other Conditions

- 7.1.44. As set out above, regard has to be had to the use of other conditions. In this case, it is considered that any period of occupancy beyond 10 months would conflict with policy DM5, albeit potentially to a lesser degree.
- 7.1.45. Similarly, whilst a limitation on the number of units able to be occupied would reduce the scale of conflict, any occupancy contrary to the current conditions would inherently be in conflict with the development plan.
- 7.1.46. There are other materials considerations to consider in relation to this case, which will be addressed below. However, it must be a crucial consideration that the variation of condition, as sought or any comparable version of that amendment, would cause the development at the site to be contrary to the development plan and, at least in part, the NPPF.

Other Matters Related to Principle

- 7.1.47. As set out above, it is noted that the occupancy restriction conditions are likely to have been breached at the site. However, no case has been made by the applicant that these breaches have occurred for a sufficient time for any breaches to have become lawful and no Certificate of Lawfulness has been applied for to this effect. Consequently, it is not known that there is a fallback position to afford any weight in the assessment of this application.

- 7.1.48. Summary in Relation to the Principle of the Variation of Conditions

For the reasons set out above, the relaxation of the conditions that currently exist would be contrary to the development plan. The harms arising from this will be considered below and weighed against the benefits of supporting the applications within a planning balance assessment.

7.2. Heritage

- 7.2.1. Any planning application for development which will affect a listed building or its setting must be assessed in accordance with the requirements of section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires a local planning authority to have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest which it possesses.
- 7.2.2. The NPPF states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan.
- 7.2.3. There are heritage assets within the general locality near to the site but these would not be directly impacted upon by the proposal, this includes the Grade II listed buildings at Connetts Farm, Trouts Farm and Palm Trees Holiday Park. Any impacts on the setting would be limited to that caused by additional activity in the area arising from the additional usage of the site. In this instance, and having had regard to the Council's obligations pursuant to the Planning (Listed Building and Conservation Areas Act) 1990, it is considered that the additional activity would not be harmful to the aural setting of those heritage assets and, therefore, there would be no conflict with Policy DM32 of the Local Plan or the heritage section of the NPPF. Due to the distance between the site and the Grade II* listed Shurland Hall and the arrangement of that site relative to the highways that would be affected by the additional use, the proposed increased activity is not considered to impact on the setting of that listed building.

7.3. Ecology

- 7.3.1. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by Policies CP7 and DM28 of the Local Plan, which relates to the protection of sites of international conservation importance including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar Sites.

Protected habitats

- 7.3.2. Section 40 of the Natural Environment and Rural Communities Act (2006) states *“For the purposes of this section “the general biodiversity objective” is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England”* and *“A public authority which has any functions exercisable in relation to England must from time to time consider what action the authority can properly take, consistently with the proper exercise of its functions, to further the general biodiversity objective.”* Furthermore, the NPPF states that ‘the planning system should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity.’ The NPPF states that ‘if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.’
- 7.3.3. In terms of the Local Plan, Policy DM28 sets out that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.
- 7.3.4. The site is in proximity to the Swale Special Protection Area (SPA) and Ramsar site and the Medway Estuary and Marshes SPA and Ramsar site and Outer Thames Estuary SPA. The sites are designated because they provide important habitats for wintering, migratory and breeding waders, seabirds, waterfowl and other birds (the qualifying features). Their conservation objectives are to maintain or restore their integrity by maintaining or restoring the extent, distribution, structure, function and supporting processes of the habitats of the qualifying features, the population of each of the qualifying features, and the distribution of the qualifying features within the site.
- 7.3.5. Increased visits and recreational use by occupiers within proximity to the habitats sites are likely to disturb the qualifying features. This can affect their ability to feed, rest, and nesting, constituting Likely Significant Effects upon them. Though the magnitude of Likely Significant Effects would be dependent upon occupancy rates, this proposal would result in greater occupation of the site for a temporary period, within a distance of habitats sites where it is identified there would likely be increased visits from occupiers, with Likely Significant Effects, upon the qualifying features. A strategic package of measures to mitigate the effects of recreational pressure and disturbance are set out in the Thames, Medway and Swale Strategic Access Management and Monitoring Strategy. This is based upon a costed tariff, to fund mitigation measures for each unit or scheme. To effectively mitigate the Likely Significant Effects, the contributions must be secured, and mitigation undertaken prior to occupation.
- 7.3.6. In response to this application Natural England have confirmed that the proposal would impact upon the integrity of the habitats sites and qualifying features, if un-mitigated. This is also supported by the KCC Ecologist. Any increase in the occupation period, even on a temporary basis would mean there would be some effects and, as such, proportionate mitigation needs to be secured.

- 7.3.7. As with any planning application, the request for financial contributions needs to be scrutinised in accordance with Regulation 122 of the Community Infrastructure Regulations 2010 (which were amended in 2014). These stipulate that an obligation can only be a reason for granting planning permission if it is necessary, related to the development and reasonably related in scale and kind. Whilst it is unusual to seek planning obligations from a temporary planning permission, for the reasons given above it is considered that it would meet all of the applicable tests to do so in this case. To make this proportionate, the amount of contribution would need to be reflective of the period of increased occupation and the two year duration of the temporarily increased population. Moreover, the conventional contribution needs to be reduced as it relates to two months of the relevant 'wintering' period. Based on the current SAMMs rate, this would amount to £2.73 per unit. For the reasons set out above, the overall sum could fluctuate if any permission granted relates to all of the caravans at the application site or a reduced number.
- 7.3.8. At the time of preparing this report, the necessary mitigation has not been secured and, as such, there is a conflict arising with the abovementioned legislation and policies. It is, however, expected that this would be resolvable and it is clear from communications received that the applicant would be willing to address this matter. The absence or securing of mitigation has a material effect on planning balance considerations and, as such, both scenarios will be considered fully below.

On-Site Protected Species

- 7.3.9. No physical works are required and there is no basis to assume that the proposed variation of the occupancy period and other applicable restrictions would have any impact on protected species at the site.

Biodiversity Net Gain (BNG)

- 7.3.10. This application was submitted after the commencement of Mandatory Biodiversity Net Gain. However, the applicable guidance is clear that this does not apply to section 73 permissions where the original permission which the section 73 relates to was either granted before 12 February 2024 or the application for the original permission was made before 12 February 2024. That is the case here and, as such, there is no BNG requirement arising from this application.

7.4. Transport and Highways

- 7.4.1. Local Plan Policies CP2 and DM6 promote sustainable transport through utilising good design principles. They set out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm. Policy DM7 of the Local Plan requires parking provision to be in accordance with the Council's Parking SPD. The site is also reliant on the use of a designated rural lane and, as such, policy DM26 is applicable.

- 7.4.2. The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. A core principle of the NPPF is that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.”

- 7.4.3. The proposal would not increase the amount of accommodation at the site and there would be no alterations to the access to the site. Whilst the duration of the use would extend and the amount of annual vehicle movements can be expected to increase as a result, there is no reason to conclude that the extended occupancy periods would be used at a greater intensity than the currently authorised periods. Noting that the traffic associated with the use can already occur for 10 months of the year and presumably be more intensive in the summer period, it is not considered that the additional traffic arising from the 2 month winter period would have a severe impact on traffic that would conflict with the above extract of the NPPF. Moreover, there would be no requirement to provide additional parking. The variation of the condition would not, therefore, be in conflict with the abovementioned policies.
- 7.4.4. The effect of additional traffic on living conditions of nearby residents will be considered below.

7.5. **Air Quality**

- 7.5.1. The importance of improving air quality in areas of the borough has become increasingly apparent over recent years. Legislation has been introduced at a European level and a national level in the past decade with the aim of protecting human health and the environment by avoiding, reducing or preventing harmful concentrations of air pollution.
- 7.5.2. Policy DM6 of the Local Plan sets out that development proposals will integrate air quality management and environmental quality into the location and design of, and access to development and in so doing, demonstrate that proposals do not worsen air quality to an unacceptable degree.
- 7.5.3. The NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing new/existing development from contributing to or being put at unacceptable risk from, or being adversely affected by, inter alia, unacceptable levels of air pollution. It also requires the effects of air pollution and the potential sensitivity of the area to its effects to be taken into account in planning decisions.
- 7.5.4. The Planning Practice Guidance on Air Quality (Paragraph: 005 Reference ID: 32-005-20191101) states that:

“whether air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to have an adverse effect on air quality in areas where it is already known to be poor, particularly if it could affect the implementation of air quality strategies and action plans and/or breach legal obligations (including those relating to the conservation of habitats and species). Air quality may also be a material consideration if the proposed development would be particularly sensitive to poor air quality in its vicinity.

- 7.5.5. Given that the application is a major application (being on land that is more than a hectare), an Emissions Mitigation Assessment should have been submitted. In this instance, noting that the application relates to the variation of a condition to enable what is effectively 4 months of additional occupation (two months during each of two years), with no additional built development occurring, it is considered that any air quality impact would be limited. The site is not within or near an Air Quality Management Area and there is no reason to conclude that the proposal would have any more than a negligible impact on such an area through increased traffic occurring within those 4 months. From this basis, whilst there is a technical conflict with the Council’s Air Quality and Planning - Technical Guidance and, in turn, Policy DM6, it is considered that there would not be harm to air quality arising from this conflict that would represent a sound basis to object to the temporary effect of the development. In this respect it is noteworthy that the Council’s Environmental Health Officer has not raised any objection on this ground to any of the group of similar applications that are currently pending determination.

7.6. Flood Risk, Drainage and Surface Water

- 7.6.1. Policy DM21 of the Local Plan and the NPPF requires that Local Planning Authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed. Moreover, Policy DM5 indicates that flood risk can be a material consideration in assessing proposals to extend the occupancy period of holiday parks.
- 7.6.2. The site is located within Flood Zone 1 in terms of fluvial and tidal flooding. In terms of surface water flooding, the Environment Agency Flood Risk map shows very minor elements of the site as being liable to surface water flooding. In this instance, noting the nature of the application, it is considered that the application passes the sequential test as it relates to the variation of an existing permission and therefore, by default, the application could only have been submitted in respect of the land at this site. Whilst no Flood Risk Assessment has been submitted, the small pockets of surface water flooding that are likely to occur would be of such negligible scale that it is not considered that the development would be unsafe if occupied through the additional months, even noting that rainfall and ground saturation is likely to be highest at this time. The absence of a flood risk assessment is a technical conflict with the abovementioned policies and the NPPF but, taking an approach that is similar to that taken by the Inspector in appeal APP/V2255/W/24/3350524 (Ham Road, Faversham), it is considered that there would be no real-world harm arising from the proposals and no increased risk of flooding on or off site as there would be no physical development proposed.

7.7. Impact of Additional Activity on Living Conditions and Countryside Tranquillity

Existing residents

- 7.7.1. Policy DM14 of the Local Plan and the NPPF requires that new development has sufficient regard for the living conditions of neighbouring occupiers. Of specific relevance to holiday parks and their occupancy period, Policy DM5 indicates that the amenity and tranquillity of residential areas is to be safeguarded. Tranquillity, to local residents and the countryside locality in general will be considered further below. However, in relation to other matters such as light, privacy, outlook and other such direct impact impacts, no additional impacts would be caused and so no objection is raised.

Site Occupiers

- 7.7.2. The accommodation at the site would not be altered by the proposed variation of condition. Regard is had to the current users of the site elsewhere in this report but, in terms of light, privacy, outlook, and other such direct impacts, it is not considered that there would be a worsening of conditions that would represent a ground to object to the application.

Countryside Tranquillity

- 7.7.3. In addition to the extract of Policy DM5 that is referenced above, the pre-amble to the policy advises that one of the purposes of the limitation on the occupancy period is to retain a period of tranquillity in rural and other areas. In the recent appeal with respect to a similar proposal at Vanity Farm Camp (APP/V2255/W/24/3356382), the Inspector found that the policy is consistent with National Planning Policy Framework objectives in respect of protecting local character, seeking to strike a balance with other competing policy objectives such as in respect of economic development and tourism. This approach is also consistent with Policy ST3 which identifies that within the open countryside, development will not be permitted unless it contributes to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities. The current restriction, in part, creates a period of tranquillity that accords with this policy aim.
- 7.7.4. Whether the extended occupancy period is afforded to all of the units at the site or a smaller number to reflect the number of residents that have previously occupied the site in breach of conditions, the extended occupancy period would undermine the period of tranquillity through additional activity. Traffic, congestion, noise and tranquillity all vary according to the season and the restriction on occupancy is intended to provide local residents with a quiet period to appreciate the rural surroundings. The occupation of the application site throughout the year would bring

about activity, noise and traffic in winter months that would be harmful to rural character and would clearly conflict with Policy DM5 of the Local Plan.

7.7.5. It is considered relevant to note that this matter has previously been tested at one of the site's within the applicant's control, Brookside Park. At appeal APP/V2255/W/21/327474, the Inspector found that *"The conditions securing the closure of the appeal site during the winter months ensure that permanent residents locally are able to experience the tranquillity of the area when it is free from visitors. Their proposed removal would mean that the site would remain open during the currently closed winter months, harming this existing character by removing the respite and tranquillity during this period. In addition, if permanent residential use were allowed of the caravans, then this would make it likely that the character of the site would change when in occupation during the summer months."* That Inspector went on to identify longer term impacts which are not relevant to this application. The Council has also previously reached a similar view with respect to an application at the nearby Beverley Camp and an Inspector reached a similar view in relation to the appeal at Vanity Farm Camp, which is within the applicant's wider holding. It is noted that the impact would be temporary and, therefore, different to that which was experienced in those cases. However, there would still be an impact for that period that is contrary to the aims of the development plan.

7.7.6. For this reason, the impact on the character of the area arising from the disturbance and the associated effect on tranquillity, would be contrary to policies ST1, ST3 and DM5 of the Local Plan and the NPPF.

7.8. Other matters

7.8.1. No additional built form or caravans are proposed as part of the proposed variation of condition and, as such, there would be no additional structures or items at the site. From this basis, there would not be any additional visual impact or any additional effects on open space demand or provision, trees, archaeology, erosion or contamination.

7.8.2. Given that the effect of the variation of the condition would be temporary, for a two year period, and only effectively have an effect for a total of 4 months across that time, it is not considered that it would be reasonable to secure any other planning obligations or community infrastructure provisions, other than that which is addressed elsewhere in this report which is required to directly mitigate an effect arising from the proposed variation of condition. For similar reasons, it is not considered that it would be reasonable to require the site to achieve renewable energy generation or energy/water efficiency improvements and, therefore, no objection is raised by Officers on the grounds that the proposed variation would not address the requirements of Policy DM19.

- 7.8.3. The applicant acknowledges and it is known that there have been periods where the conditions referred to above, potentially at this site as well as other holiday parks with comparable conditions, have been breached. This has continued to a point where it is known that some users of the holiday parks in this area have used them as the main residence. Within their Planning Statement, the applicant indicates that this could amount to 400 or more people occupying 200 or more caravans at the sites that are in their control. This application site is likely to account for a portion of that unauthorised occupation. Any under-enforcement that has occurred is not considered to be reason, in itself, to conclude that the conditions no longer serve a purpose or should be set aside for a temporary period. Enforcement is discretionary and, if any breaches are brought to the Council's attention, in accordance with the Planning Enforcement Strategy, the Council would have choices to make around whether to enforce and, if applicable, how to enforce. The conditions that exist are considered to meet the relevant tests of enforceability and reasonableness and, as such, these are not grounds to vary the conditions.
- 7.8.4. The applicant has indicated that options have been explored relating to limiting the breach by moving all year-round users of the wider holding into a single part of the site. However, this has been deemed to be impractical for several reasons.

Interim Policy Statement

- 7.8.5. The Full Council adopted an interim planning policy on park homes on 17 June 2020 as 'a material consideration that will hold some weight in the consideration of applications for park home proposals'. However, the interim policy is considered to hold limited weight given that it was not progressed via the development plan process, and has not been subject to scrutiny through consultation and examination. This approach has been supported at subsequent appeals including those at Plough Leisure Caravan Park, Brookfield Park, Golden Leas Holiday Park and Estuary View Caravan Park
- 7.8.6. The interim policy sets out a list of criteria for compliance. This includes the requirement that the site is in a sustainable location with access to services and facilities, and other criteria which, in some cases the proposals would comply with but in others, it has not been demonstrated that the proposal would comply, the accommodation meeting identified standards for example. It is set out elsewhere why these specific matters are a concern in relation to this application. Therefore, given the limited weight that should be attached to this interim policy, together with the conflict in any case with its criteria, it is still considered that the application is unacceptable.

Human Rights Act and Public Sector Equality Duty (Equality Act 2010)

- 7.8.7. The applicant states at several locations within their Planning Statement that some of the users of the site have health conditions and it is noted that some will consider the caravans to be their homes. In terms of personal circumstances of the site users, the applicant has not provided any specific details. No representations have been

received detailing any specific considerations that the Council is required to have regard to. The Council has a duty to have due regard to the Public Sector Equality Duty as detailed within the Equality Act 2010 and the Human Rights Act 1998.

- 7.8.8. In line with the Human Rights Act 1998, it is unlawful for a public authority to act in a way which is incompatible with a Convention right, as per the European Convention on Human Rights. The human rights impacts that are most relevant to planning are Article 1 of the First Protocol (Protection of property), Article 8 (Right to respect for private and family life) and Article 14 (Prohibition of discrimination) of the Convention.
- 7.8.9. Where the peaceful enjoyment of someone's home and/or their private life is adversely affected, their Article 8 and/or Article 1 of the First Protocol rights may be engaged. The loss of other forms of property (e.g. business premises) may engage rights under Article 1 of the First Protocol. These rights are both what are known as 'qualified rights', that is, they are not absolute rights but involve some form of balancing exercise between the rights of the state to take various steps and the rights of the individual or other affected body/organisation.
- 7.8.10. In the case of Article 8 rights, the interference must be in accordance with law and be considered necessary in the interests of national security, public safety or the economic well-being of the country, for the prevention of crime/disorder, for the protection of health/morals or for the protection of the rights and freedoms of others
- 7.8.11. In the case of *RLT Built Environment Ltd v Cornwall Council* (a judicial review from 2016), the Court drew out a number of points concerning how to approach the loss of a home in the context of the planning process. The points set out by the Court were as follows:
- I. Article 8 does not give a right to a home, or to a home in any particular place.*
- II. However, where someone has a home in a particular dwelling, it may interfere with the article 8 rights of him and/or his family to require him/them to move.*
- III. Whilst those rights demand "respect", they are of course not guaranteed. In this context, as much as any other, the public interest and/or the rights and interests of others may justify interference with an individual's article 8 rights.*
- IV. Where article 8 rights are in play in a planning control context, they are a material consideration.*
- 7.8.12. Any interference in such rights caused by the planning decision has to be balanced with and against all other material considerations, the issue of justification for interference with Article 8 rights effectively being dealt with by way of such a fair balance analysis.

That balancing exercise is one of planning judgment.

Article 8 rights are, of course, important: but it is not to be assumed that, in an area of social policy such as planning, they will often outweigh the importance of having coherent control over town and country planning, important not only in the public interest but also to protect the rights and freedoms of other individuals”.

7.8.13. In terms of Article 1 of the First Part, this provides as follows:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No-one shall be deprived of his possessions except in the public interest and subject to conditions provided for by law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

7.8.14. There are three key rules. The first is the principle of peaceful enjoyment of property. The second covers the deprivation of possessions and subjects it to certain conditions. The third recognises that that property can be controlled in the general interest.

7.8.15. Claims under any of the three rules need to be examined under four headings:

- I. Whether there was an interference with the peaceful enjoyment of “possessions”;*
- II. Whether the interference was “in the general interest”;*
- III. Whether the interference was “provided for by law”;*
- IV. Proportionality of the interference.*

7.8.16. In terms of assessing the proportionality of the interference, domestic case-law (Thomas v Bridgend County Borough Council in the Court of Appeal [2011], applying the European case of Bugajny), has summarised the approach as follows:

“The cases show that the issue of proportionality can be expanded into the following question:

“whether the interference with the applicants' right to peaceful enjoyment of their possessions struck the requisite fair balance between the demands of the general interest of the public and the requirements of the protection of the individual's fundamental rights, or whether it imposed a disproportionate and excessive burden on them.” (Bugajny [...] para 67).”

7.8.17. Article 14 of the Convention deals with the requirement for Convention freedoms to be available to all on a non-discriminatory basis. Article 14 is not a free-standing right in the same way as the other Articles that are mentioned above.

7.8.18. In line with the Public Sector Equality Duty (‘PSED’) the Council must have due regard to the need to eliminate discrimination and other forms of less favourable treatment such as harassment and victimisation, and to advance equality of opportunity and

foster good relations as between persons who share a protected characteristic and persons who do not share it. The PSED is set out in section 149 of the Equality Act 2010. A protected characteristic for these purposes is age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. Advancing equality will amongst other measures remove or minimise disadvantages suffered by people due to their protected characteristic and take steps to meet the needs of people from protected groups where these are different from the needs of other people.

- 7.8.19. In planning terms, the potential impacts of a proposal on an individual or on groups of individuals should be addressed by the decision-maker as a material consideration. In balancing this against other material considerations, the decision-maker should also ensure that they give due weight to what is required by their statutory duties, including the requirements of the PSED.
- 7.8.20. If planning permission were refused, then occupation of the units at the site would be restricted to the existing 10 month period that is defined by the permission and in alignment with development plan policy. The occupiers would be required to vacate their units for most of January and all of February each year and would only be permitted to use the units for holiday/recreational use.
- 7.8.21. In terms of Article 8 rights (that is, the right to respect for the home and private life), the right is engaged by virtue of the continued inability to use the homes on the park for most of January and February in each of the two years. If the conditions are correctly followed, the occupiers will be required to find alternative accommodation. The question is whether the interference with the rights of affected individuals can be considered proportionate and necessary and so able to be justified under the second limb of Article 8. This involves weighing the interference against other material considerations in order to arrive at a fair balance between the interests of the individual and the interests of the community as a whole.
- 7.8.22. Development plan policy does not support year-round occupation of the Borough's holiday parks. Condition 2 of the effective planning permission aligns with this and the conditions that are in effect also require the caravans to be used for holiday and recreational use only, preventing the caravans being occupied as a sole or main residence. The occupants of the site would be required to move out of their park homes for at least two months of each year and would not be able to use the homes as a sole or main residence. Officers acknowledge that this could be disruptive or highly disruptive for those affected
- 7.8.23. Some groups are likely to be more sensitive than others to displacement. The proportion of the occupiers of the site that might consider themselves to fall within these groups has not been made clear but, based on the applicant's submissions, including but not limited to the incident record that has been provided at Appendix 5 of the Applicant's Statement, it is considered appropriate to proceed on the basis that this would affect some persons with protected characteristics.

- 7.8.24. Taking into account the nature of the impact on the existing occupiers, officers consider the benefits of resisting unplanned residential development in an unsustainable location and protecting the rural character of this part of Sheppey, which is in the public interest, would outweigh any interference with the rights of the individual under Article 8.
- 7.8.25. As regards Article 1 of the First Protocol rights in relation to residential occupiers, officers have proceeded for the purposes of assessing this application on the basis that this right is engaged by the temporary displacement from the caravans on the site each year and the restriction on occupation of the caravans as a sole or main residence. That interference can be regarded as being in the general interest, with the operation of the planning system being a legitimate interest of the state
- 7.8.26. Refusing a planning application has different implications to taking enforcement action. Whilst a refused planning application does not resolve a situation or provide comfort, neither does it, in itself, cause or require the cessation of the unauthorised use. In this case the granting of planning permission would provide certainty for residents for a 2-year period, but it would not be until positive action to require the removal of residents takes place that the Council would be responsible for making persons homeless. There would be options open to the Council in relation to enforcement. It is considered that the proportionality of refusing a planning application as opposed to taking enforcement action has to be a consideration in this case, particularly in light of the limited period of respite that would be afforded to occupiers. In this respect, the implication of the Human Rights Act is considered to be different to an application relating to the permanent use of a site or a decision whether to take enforcement action.
- 7.8.27. In officers' assessment, taking account of the nature of the impact on residential occupiers, the proposed mitigation measures and the public benefits of the scheme, a fair balance is arrived at between the protection of the rights of affected individuals and the interests of the wider community and a disproportionate or excessive burden would not be imposed.

7.9. **Planning Balance – Benefits and Harm**

- 7.9.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.9.2. The amended restrictions would enable harm to tranquillity. The proposal would also be contrary to the authorised use and allocation of the site as a holiday park, thereby undermining its intended use as a driver of tourism and the associated economic activity that derives from tourism, which is important to the local economy. For these reasons and due to the site being located in the countryside, the proposal is contrary to the development plan Settlement Strategy. Therefore, the application conflicts with policies ST1, ST3, ST6, CP1, CP2, DM3, DM4 and DM5 of the Local Plan. Moreover,

whilst it would be resolvable, the proposal fails to mitigate its impact on designated habitat sites, which conflicts with policy ST1, CP7, DM14 and DM28 of the Local Plan. Therefore, while no objection is raised on the basis of the application of other policies, the development plan as a whole indicates that planning permission should be refused.

- 7.9.3. The NPPF is a material consideration and as the Council are unable to demonstrate a 5-year supply of housing land, paragraph 11.d of the NPPF is engaged. This states the following:

“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.”

- 7.9.4. In this case, as per part (i) and as a result of the impact on designated habitats not being mitigated, the application of policies that protect areas or assets of particular importance do provide a strong reason for refusing the development. Paragraph 195 of the NPPF also clarifies that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site.

- 7.9.5. However, proceeding on the basis that this is resolvable if the proposal was acceptable in all other respects, it is considered that it is sensible to undertake an assessment on the basis of the habitats issue being addressed. In such circumstances, it would need to be considered whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole This assessment is carried out below.

Benefits

- 7.9.6. The primary benefit is that the proposal would provide year-round accommodation for people that are understood to have become reliant on the accommodation at the site, many of whom it is indicated would not have alternative accommodation immediately available to them. Formally allowing the accommodation to be used on a year-round basis and not as holiday accommodation would avoid a potential situation where

people could be made homeless if the site owners decide to comply with the conditions which should have been complied with previously.

- 7.9.7. The proposal would also provide a temporary boost to housing supply as, if the conditions are relaxed, the caravans could be considered temporary accommodation which can be counted towards a 5 year housing land supply. This would however represent a temporary boost which would be reversed in 2 years time and, as such, does not represent a substantive solution to the Council's inability to demonstrate a five year housing land supply.

Harm

- 7.9.8. In the same way that the abovementioned housing supply benefit would be temporary, the harms caused would be temporary.
- 7.9.9. For reasons set out above, the temporary proposal would conflict with the Settlement Strategy and represent an unsustainable form of development in a countryside location.
- 7.9.10. The relaxation of the conditions would effectively enable a temporary change of use that would be contrary to the development plan. The site is allocated as a holiday park and it is expected that the site should be used in such a way that generates economic activity throughout the local area. Whilst it is noted that the applicant's case is that the site does not function as a holiday park, the potential to achieve tourism activity through the use of the site would be temporarily lost.
- 7.9.11. A reason for the occupancy period being 10 months is to create a period of tranquillity. Albeit it would only be for a temporary period and it is understood that activity has been occurring in breach of the conditions (at this site and others) which would have undermined this objective, it is considered that formally allowing this activity to occur would cause harm to tranquillity and materially and unacceptably change the character of the area, for that temporary period.

Planning Balance (excluding the impact on protected habitats for the reason set out at 7.9.5)

- 7.9.12. Excluding the impact on protected habitats for the reason set out at 7.9.5 and applying the 'tilted balance' on the basis that the protected habitats issue can be easily resolved, it is still considered that the harm arising from the impact of the development and the associated conflict with paragraphs 88 and 187 of the NPPF would significantly and demonstrably outweigh the benefits of the proposal. The proposal is, therefore, contrary to the NPPF when taken as a whole. The proposal is also contrary to the development plan when it is taken as a whole for the reasons that are set out above. Having regard to other material planning considerations, including the housing needs of people that have been using the site, and weighing those factors against the harms that have been identified and the conflict with national policy and the development plan, it is considered that planning permission should be refused.

Planning Balance (including the impact on protected habitats for the reason set out at 7.9.5)

- 7.9.13. Including the impact on protected habitats for the reason set out at 7.9.5 makes the balancing exercise far simpler. The unmitigated impact on protected habitats would provide a strong reason for the refusal of the application and, therefore, the NPPF would indicate, even more strongly, that planning permission should be refused.

7.10. Conclusion

- 7.10.1. For the reasons given above, the development plan indicates that planning permission should be refused and other material considerations, including the NPPF, do not indicate that a different decision should be reached. Consequently, it is recommended that the application is refused on the grounds of the impact on tranquillity, the impact on tourism and the rural economy, the conflict with the development plan settlement strategy and due to the lack of a SAMMS contribution.

- 7.10.2. In considering the application, account has been taken of the information included with the application submission, the National Planning Policy Framework and the Development Plan, and all other material considerations including representations made including the views of statutory and non-statutory consultees and members of the public.

7.11. Recommendation

- 7.11.1. Refuse the application for the following reasons:

7.12. Reasons for refusal

1. The effect of the application would be to, temporarily, formalise the removal of accommodation from being available for use for tourism purposes and enable the site to be put to residential use. This is contrary to the purposes of the allocated holiday park and would cause harm to the local economy to which tourism is an important contributor. Moreover, the proposal would cause harm to the tranquillity and character of the locality. Furthermore, the proposal would be contrary to the Settlement Strategy for the Borough of Swale and the Isle of Sheppey Area Strategy by enabling a residential use to occur in a countryside location that is remote from the nearest settlements where a good range of services are available, that lacks the prospect of residents being able to integrate with the existing communities and is served by limited access to public transport to services, thereby resulting in a car dependent population. Having had regard to all other material considerations and having given consideration to whether any alternative

conditions would be able to make the development acceptable, the proposal is, considered, unacceptable and contrary to Policies ST1, ST3, ST6, CP1, CP2, DM3, DM4, DM5 and DM14 of Bearing Fruits 2031 - The Swale Borough Local Plan 2017; and the National Planning Policy Framework

2. The proposed development will create potential for recreational disturbance to the Swale Special Protection Area and fails to provide adequate mitigation against that potential harm. The development would therefore affect the integrity of this designated European site, and would be contrary to the aims of policies ST1, CP7, DM5 and DM28 of Bearing Fruits 2031 - The Swale Borough Local Plan 2017; and the National Planning Policy Framework



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3.2 REFERENCE NO -- 25/503386/FULL		
PROPOSAL -- Section 73 - Application for variation of conditions 2, 3, and 4 (to allow year-round residential occupancy of caravans for a temporary period until 31 December 2027) pursuant to SW/11/1042 for - Variation of condition (a) of planning permission NK/8/62/220B to extend occupancy period from 8 to 10 months.		
SITE LOCATION -- Shurland Dale Holiday Park Warden Road Eastchurch ME12 4EN		
RECOMMENDATION -- Delegate to the Head of Planning to refuse planning permission.		
APPLICATION TYPE -- Full – Section 73.		
REASON FOR REFERRAL TO COMMITTEE -- The Head of Planning considers it to be in the public interest for the application to be determined by the Planning Committee.		
Case Officer – Demetri Prevatt		
WARD Sheppey East	PARISH/TOWN COUNCIL Eastchurch	APPLICANT Kent Holdco Ltd AGENT Laister Planning
DATE REGISTERED – 01/09/2025		TARGET DATE - 01/12/2025
BACKGROUND PAPERS AND INFORMATION: - 5061-351 -- Site Location Plan; - Covering Letter -- Prepared by Laister Planning Ltd. (08.08.2025); and - Planning Statement -- Prepared by Laister Planning Ltd. (08.08.2025). The full suite of documents submitted and representations received pursuant to the above application are available via the link below: https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=T0U1NWTYKJL00		

1. SITE LOCATION AND DESCRIPTION

- 1.1. The Shurland Dale Holiday Park (South) is a 5.8ha irregular-shaped holiday park located on the northwest side of Warden Road where it runs along the side of the large collection of holiday parks located to the northeast of Eastchurch. It is the southern site of the Shurland Dale Holiday Park with the northern site (Formerly Bramley Park) located to the northwest. The site is also adjacent to Sunnymead Caravan Park and Sunnyside Chalet Park that are to the northwest and northeast respectively. In contrast, the other neighbouring properties are agricultural units, residences, or utility facilities (e.g. pumping station). Shurland Dale Holiday Park (South) is comprised of approximately two-hundred and sixty-nine (269) caravan plots with associated

amenities. It is one of the eight (8) individual holiday parks that are controlled by the Applicant and combine to form the larger Kent Parks site.

- 1.2. Kent Parks is comprised of Brookside Leisure Park, Cliff Cottage Chalet Park, Eastchurch Holiday Camp, Elmhurst Caravan Park, Pleasant View Caravan Park, Shurland Dale Holiday Park (North Site - Formerly Bramley Park), Shurland Dale Holiday Park (South Site), and Sunnymead Caravan Park. These eight (8) parks are adjacent to each other and share both ancillary facilities and operation services. The ancillary amenities and facilities include a convenience store (currently closed), children's playgrounds, laundrette facilities, outdoor amenity spaces, office space for the management company, two (2) reception buildings, and two (2) clubhouses with their own arcade, bar, event space, restaurant, and swimming pool.
- 1.3. The Kent Parks site is located to the northeast of Eastchurch outside of the build-up area boundaries of the Tier 4 rural local service centre. It is accessible from the rest of the Isle of Sheppey via Warden Road, which leads to an internal road network comprised of First, Second, Third and Fourth Avenues. Some of the properties neighbouring the site are residential in nature, some are agricultural units or open countryside, with the northeast coastline being within walking distance to the north. The site's proximity to the coastline means that parts of the Kent Parks site is within the Coastal Change Management Area and Erosion Zone 2, but the designated area does not include this site.
- 1.4. The entire Kent Parks site is located within the impact risk zones of both the Sheppey Cliffs and Foreshore Sites of Special Scientific Interest (SSSI) and the Swale SSSI. Similarly, the site is within the 6.0km buffer zones of the Swale RAMSAR site and Special Protect Area (SPA), as well as the 6.0km buffer zone of the Outer Thames Estuary SPA.
- 1.5. In regard to other relevant planning constraints, the entire Kent Parks site is located within an area safeguarded for Brickearth. While it is also situated within Flood Zone 1, only parts of the site are considered to be at high risk of Surface Water flooding by the Environment Agency.
- 1.6. The list provided allow notes the planning constraints for the Shurland Dale Holiday Park (South).
 - Agricultural Land Classification: Grade 3
 - Built-Up Area Boundary: Outside
 - Flood Risk - Surface Water: High
 - Flood Zone: 1
 - Grade II* Listed Building: Shurland Castle
 - Grade II Listed Buildings: Connetts, Fletcher Battery, and Trouts (Nearby)
 - Great Crested Newt: Amber Zone
 - Great Crested Newt Strategic Opportunity Area: Fringe 2: Amber Zone
 - Holiday Park: Within
 - KMWLP - Safeguarded Area: Brickearth Swale Areas

- Lower Medway Internal Drainage Board
- National Character Area: Greater Thames Estuary
- Public Footpath: ZS43
- Rural Lanes: Near to.
- The Medway Estuary and Marshes RAMSAR Site: Within Zone of Influence
- The Medway Estuary and Marshes SPA: Within Zone of Influence
- The Outer Thames Estuary SPA: Within 6.0km Buffer Zone
- The Sheppey Cliffs and Foreshore SSSI Risk Zone: Within
- The Swale RAMSAR Site: Within 6.0km Buffer Zone
- The Swale SPA: Within 6.0km Buffer Zone
- The Swale SSSI Risk Zone: Within

2. PLANNING HISTORY

- 2.1. 21/506565/FULL -- Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1042, to allow the caravan park to open/be occupied for 12 months per year as a holiday park. (Resubmission of 20/505304/FULL).

Refused on 21.03.2022.

- 2.2. 20/505304/FULL -- Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1042, to allow the caravan park to open/be occupied for 12 months per year as a holiday park.

Refused on 19.03.2020.

- 2.3. 16/508223/FULL -- Variation of Condition 2 of planning permissions SW/11/1525 and SW/11/1042 to allow 12 month occupation of one caravan for staff/warden accommodation.

Conditionally Granted on 21.03.2017.

- 2.4. SW/14/0569 -- Variation of condition (i) of planning permission NK/8/62/220 to allow 12-month occupation of 7 caravans for staff/warden's accommodation.

Refused on 25.07.2014.

- 2.5. SW/11/1042 -- Variation of condition (a) of planning permission NK/8/62/220B to extend occupancy period from 8 to 10 months.

Conditionally Granted on 14.11.2011.

- 2.6. NK/8/62/220B -- Revised layout of caravan camp.

Conditionally Granted

Other Relevant Applications and Appeal Decisions

2.7. Whilst it is essential that all cases are considered on their own merits, it is also appropriate for Local Planning Authorities to act consistently and have regard to the outcome of other appeals as material considerations, particularly where it might inform the manner in which policies are interpreted and applied. Other comparable applications and appeals relating to the use of holiday parks on a year-round basis received since January 2020 include the following:

2.8. Beverley Camp, Warden Road, Eastchurch.

Application 22/505778/FULL – Refused

Retrospective application for change of use from a holiday park (10 months occupancy) for the siting of 21no. residential retirement park homes for use all year round.

2.9. Shurland Dale Holiday Park, Warden Road, Eastchurch

20/505317/FULL – Refused

Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1525, to allow the caravan park to open/be occupied for 12 months per year as a holiday park.

2.10. Vanity Farm Camp, Leysdown Road, Leysdown

Application 22/505752/FULL – Refused

Section 73 - Application for variation of condition 2 (to allow use of the holiday park on a year-round basis) pursuant to SW/11/1608 for - Variation of condition (i) of planning permission NK/8/50/51 to allow occupation of the site for 10 months (1st March to 2nd January).

Appeal APP/V2255/W/24/3356382 – Dismissed

Application 21/505773/FULL - Approved

Section 73 - Application for a temporary variation of condition 2 (occupancy restriction) pursuant to application SW/11/1608, to allow occupancy of the chalet/caravans from the 02/01/2022 to 28/02/2022 (after which the park will revert back to a 10 month occupancy restriction).

Applications 20/505526/FULL, 20/503803/FULL and 20/502453/FULL approved a similar temporary permission at individual units 1, 85, 77 Vanity Farm Camp.

A similar temporary variation was approved at land adjoining Vanity Farm and now part of Harts Park under the terms of application 21/505699/FULL and a further application at Harts Park for a similar temporary change was approved under 21/505692/FULL.

2.11. Brookside Park, First Avenue, Eastchurch, Sheppey

Application 20/504175/FULL – Refused

Section 73 application to permit permanent year round residential use of caravans - removal of conditions 2 (occupancy restriction) and condition 3 (occupancy restriction) imposed on planning permission reference SW/11/1521

Appeal APP/V2255/W/21/3274740 – Dismissed.

2.12. Golden Leas Holiday Park, Bell Farm Lane, Minster on Sea

Application 20/503267/FULL – Refused

Section 73 application to vary condition 2 of planning permission ref SW/11/1588 to permit permanent year round residential use of 20no. caravans (age restricted to over 55s) as identified by drawing no. 4348-510 (The remainder of the site to continue in use for the stationing of caravans as holiday accommodation and for a maximum 10 month period each year).

Appeal APP/V2255/W/21/3279116 – Dismissed.

2.13. Estuary View Caravan Park, Bell Farm Lane, Minster on Sea

Application 20/503268/FULL – Refused

Section 73 - Application to permit permanent year round residential use of caravans - Removal of Conditions 2 (occupancy restriction), 3 (occupancy restriction) and 4 (compliance with schedule of requirements) imposed on planning permission reference SW/12/0195.

Appeal APP/V2255/W/21/3279125 - Dismissed

2.14. Ives Holiday Camp, Park Avenue, Leysdown

Application 20/502813/FULL – Refused.

Section 73 - Application to permit permanent year round residential use of caravans - removal of condition 2 (occupancy restriction), 3 (occupancy restriction) and 4 (occupancy restriction) imposed on planning permission 19/502752/FULL for retention of existing dwelling and change of use of land to a holiday caravan park.

2.15. Plough Leisure Caravan Park, Plough Road, Minster on Sea

Application 20/502811/FULL – Refused

Section 73 - Application to permit permanent year round residential use of caravans (age restricted to over 55s) for the land outlined in red on plan PL-LOC - removal of condition 2 (occupancy restriction), 3 (occupancy restriction) and 4 (occupancy restriction) imposed on planning permission SW/12/0024

Appeal APP/V2255/W/21/3277288 – Dismissed

20/505401/FULL – Approved

Section 73 - Application for a temporary variation of condition 2 (occupancy restriction) pursuant to application SW/12/0024, to allow occupancy of the caravans and chalets on the park during January and February 2021 (after which the park will revert back to a 10 month holiday occupancy restriction).

2.16. Hollybush Farm Caravan Park, Oak Lane, Minster-on-sea

22/500510/FULL – Approved

Section 73 - Application for temporary variation of condition 2 (occupancy restriction) pursuant to application SW/11/1587, to allow occupancy of the chalets/caravans from the 02/01/2022 to 28/02/2022 (after which the park will revert back to a 10-month occupancy restriction).

2.17. Sheerness Holiday Park, Halfway Road, Minster-on-sea

21/506564/FULL – Refused

Section 73 - application for Variation of condition 2 (occupancy restriction) of SW/12/0080 to allow the caravan park to open/be occupied for 12 months per year as a holiday park. (Resubmission of 20/505387/FULL).

As detailed in the description, similar application 20/505387/FULL was refused.

2.18. Central Beach Caravan Park, Grove Avenue, Leysdown

21/506563/FULL – Refused

Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1522, to allow the caravan park to open/be occupied for 12 months per year as a holiday park. (Resubmission of 20/505388/FULL).

2.19. Ashcroft Caravan Park, Plough Road, Eastchurch

21/506558/FULL – Refused

Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1044, to allow the caravan park to open/be occupied for 12 months per year as a holiday park. (Resubmission of 20/505316/FULL).

As detailed in the description, similar application 20/505316/FULL was refused.

2.20. Seafields Caravan Park, First Avenue, Eastchurch

21/506426/FULL – Approved

Section 73 - Application for variation of condition 2 (occupancy restriction) pursuant to application SW/11/1284, to allow the caravan park to open/occupied for additional 2 months in 2022 (January and February) on a temporary basis.

2.21. Copperfield Holiday Park, Fourth Avenue, Eastchurch

20/505905/FULL – Approved

Section 73 - Application for a temporary variation of condition 2 (occupancy restriction) pursuant to application SW/11/1432, to allow occupancy of the caravans and chalets

on the park during January and February 2021 (after which the park will revert back to a 10 month holiday occupancy restriction).

3. PROPOSED DEVELOPMENT

- 3.1. The application, submitted under the terms of Section 73 of the Town and Country Planning Act, is seeking an amendment to the conditions imposed on Planning Permission ref. SW/11/1042 which granted permission for “Variation of condition (a) of planning permission NK/8/62/220B to extend occupancy period from 8 to 10 months”.
- 3.2. The amendment would temporarily enable year-round occupation of the caravans located within the holiday park for a period ending on 31.12.2027 and enable a relaxation of the nature of the occupation, through the re-wording of Conditions 2, 3 and 4.
- 3.3. Since the amendment would only affect the occupancy allowed by the extant Planning Permission and its conditions, no physical alterations or amended drawings are required. The only changes would be to the relevant existing conditions that are copied below.

Condition 2 -- Allowable Period of Occupation

No caravans shall be occupied except between 1st March and 2nd January in the following calendar year, and no caravan shall be occupied unless there is assigned agreement between the owners or operators of the Park and all caravan owners within the application site, stating that:

- a) The caravans are to be used for holiday and recreational use only and shall not be occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence; and
- b) No caravans shall be used as a postal address; and
- c) No caravan shall be used as a residence for registering, claiming or receipt of any state benefit; and
- d) No caravan shall be occupied in any manner, which shall or may cause the occupation thereof, to be or become a protected tenancy within the meaning of the Rent Acts 1968 and 1974; and
- e) If any caravan owner is in breach of the above clauses their agreement will be terminated and/or not renewed upon the next expiry of their current lease or licence.

On request, copies of the signed agreement[s] shall be provided to the Local Planning Authority.

Grounds: In order to prevent the caravans from being used as a permanent place of residence, an in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.

Condition 3 -- Signed Agreement

Any caravan that is not the subject of a signed agreement pursuant to Condition 2 shall not be occupied at any time.

Grounds: In order to prevent the caravans from being used as a permanent place of residence, an in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.

Condition 4 -- Operation Management

The owners or operators of the Park shall at all times operate the Park strictly in accordance with the terms of the Schedule appended to this decision notice.

Grounds: In order to prevent the caravans from being used as a permanent place of residence, an in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.

Schedule

The park operator must:

1. Ensure that all caravan users have a current signed agreement covering points (a) to (e) in condition 2 of the planning permission; and
2. Hold copies of documented evidence of the caravan users main residence and their identity; this may comprise of utility bills, Council Tax bill, passport, driving licence or similar document; and
3. On request, provide copies of the signed agreement[s] to the Local Planning Authority; and
4. Require caravan users to provide new documentation if they change their main residence; and
5. Send all written communications to the main residence of the caravan user; and
6. Not allow postal deliveries to the caravan or accept post on behalf of the caravan users at the park office; and
7. Ensure that each caravan is to be used for holiday use only and that no caravan is occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence, of the user or occupant; and
8. Adhere to a code of practice as good as or better than that published by the British Homes and Holiday Parks Association.

4. **REPRESENTATIONS**

- 4.1. A single round of consultation has been undertaken, during which letters were sent to neighbouring occupiers. A notice was displayed at the application site and the

application was advertised in the local newspaper. Full details of representations are available online.

- 4.2. Eastchurch Parish Council strongly objected to the application on the following grounds:

Comments	Report reference
Detailed some of the content of the existing conditions and a commentary on the reasoning for them being imposed.	Noted.
New housing has increased demand on roads, schools, healthcare and services since the conditions were imposed and there is not enough infrastructure. The strain on infrastructure is contrary to the NPPF.	See Paragraph 7.8.2
Warden Road is already overburdened. Allowing the proposed amendment would exacerbate this issue at a time of year when road conditions can be dangerous to the detriment of highway safety (incl. the provision of access for emergency services).	See Section 7.5.
Conflict with Policies RC7, E1 and E6 of the former local plan.	Regard has been had to the equivalent policies of the current local plan in the below assessment.
Conflict with Policies ST3, DM3 and DM26.	Regard has been had to the policies of the local plan throughout the below assessment.
Similar applications have been resisted.	See Section 2 above.
If the application is approved conditions should be imposed to make the permission temporary, limit the use to holiday accommodation, replicate several other elements of the existing conditions, provide highway mitigation, and requiring annual monitoring and record keeping.	If the Planning Committee was minded to support the application, conditions would be suggested.

5. CONSULTATIONS

- 5.1. There has been one (1) round of consultation for consultees.
- 5.2. **KCC Flood and Water Management** -- No Comments.
- 5.3. **KCC Ecological Advice Service (KCC EAS)** -- No objection on the condition that the Applicant provides a proportional financial contribution to the SAMMS.

- 5.4. **SBC Economy & Regeneration:** The Economy and Regeneration team are ordinarily supportive of all tourism related developments in the borough. However, the application to extend the occupation months at the holiday parks in question, would lead to a loss of income generated by visitors to the island in both high and low seasons. It will also reduce the variety of accommodation available for visitors to choose from as many of the caravans will default to being full time residential properties. There is limited accommodation of the same type, on offer elsewhere in the borough and it would therefore be beneficial to maintain the holiday stock available on the Isle of Sheppey.
- 5.5. **SBC Housing** -- The Housing team has engaged regularly with representatives from Kent Parks, who have provided information indicating that a number of occupants are residing in the holiday parks as their permanent homes. This is in breach of the existing planning consents, which they have acknowledged and have sought to work with the Council to resolve the issue. It remains unclear whether the accommodation on these sites meets the standards required under the Mobile Homes Act, and therefore may not be suitable for permanent residential use.

In response to the ongoing issues, the Council's Homelessness Prevention Team has conducted on-site drop-in surgeries to offer advice and support to residents at risk of homelessness.

Historically, the annual closure of caravan parks across the Isle of Sheppey has led to a notable increase in demand for Housing Options services. In the previous year, 55 households approached the Housing Options team due to caravan park closures. Of these, 12 households were specifically from Kent Parks sites. So far this year, 23 households have approached the service. Of these, 11 households were specifically from Kent Parks sites. It is important to note that this year's figures are likely to rise as we approach the winter period, when park closures typically peak.

Should this level of presentation continue or increase, it would place significant pressure on the Housing Options service to deliver statutory duties, including the provision of advice, assessments, and sourcing suitable accommodation. This would also result in substantial financial implications for the Council, particularly in relation to the cost of temporary accommodation.

- 5.6. **Mid-Kent Environmental Protection** -- No comments.
- 5.7. **Environment Agency (EA)** -- No Comments.
- 5.8. **Natural England (NE)** -- Providing that the appropriate assessment concludes that the measures can be secured [with sufficient certainty] as planning conditions or obligations by your authority, and providing that there are no other likely significant effects identified (on this or other protected sites) which require consideration by way of appropriate assessment, Natural England is likely to be satisfied that your appropriate assessments will be able to ascertain with sufficient certainty that there will be no adverse effect on the integrity of the European Site from recreational pressure in view of the site's conservation objectives. In this scenario, Natural England

is unlikely to have further comment regarding the Appropriate Assessment, in relation to recreational disturbance.

5.9. **Lower Medway Internal Drainage Board (LMIDB)** -- No Comments.

5.10. **Southern Water** -- No objections.

5.11. **Kent Police** -- No Comments (Outside of Scope)

6. DEVELOPMENT PLAN POLICIES

Bearing Fruits 2031: The Swale Borough Council Local Plan 2017 (the Local Plan)

ST1 Delivering sustainable development in Swale
 ST2 Development targets for jobs and homes 2014-2031
 ST3 The Swale settlement strategy
 ST4 Meeting the Local Plan development targets
 ST6 The Isle of Sheppey area strategy
 CP1 Building a strong, competitive economy
 CP2 Promoting sustainable development
 CP3 Delivering a wide choice of high quality homes
 CP4 Requiring good design
 CP5 Health and wellbeing
 CP6 Community facilities and services to meet local needs
 CP8 Conserving and enhancing the historic environment
 DM3 The rural economy
 DM4 New holiday parks or extensions to existing parks
 DM5 The occupancy of holiday parks
 DM6 Managing transport demand and impact
 DM7 Vehicle parking
 DM14 General development criteria
 DM19 Sustainable design and construction
 DM21 Water, flooding and drainage
 DM26 Rural Lanes
 DM28 Biodiversity and geological conservation
 DM32 Development involving listed buildings

Supplementary Planning Guidance/Documents -

Landscape Character Assessment and Biodiversity Appraisal (LCA&BA), 2011.
 Parking Standard Supplementary Planning Document, 2020.
 Air Quality and Planning Technical Guidance, 2024.
 Strategic Access Management and Monitoring Strategy (SAMMS), 2014

National Planning Policy Framework (the NPPF)

National Planning Practice Guidance (NPPG)

Kent Mineral and Waste Local Plan 2024-39 (KM&WLP), 2025 & the Kent Mineral Sites Plan (KMSP), 2020.

7. ASSESSMENT

The main considerations involved in the assessment of the application are:

- Principle
- Heritage
- Ecology
- Transport and Highways
- Air Quality
- Impact of Additional Activity on Living Conditions and Countryside Tranquillity
- Other Matters

7.1. **Principle**

- 7.1.1. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.
- 7.1.2. The NPPF provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.

Terms of Application

- 7.1.3. The application has sought the variation of conditions 2, 3 and 4 to enable their relaxation for a 2 year period. Depending on the approach that is taken, conditions could be imposed to either make the effect of any permission temporary or the conditions could be varied to set out the limitations that exist for two years and the conditions that would then be applicable thereafter.
- 7.1.4. In the event that the complete relaxation of conditions 2, 3 and 4 for a two year period is not found to be acceptable, consideration should be had to whether alternative conditions could be imposed to make a development acceptable. In this regard, it is noted that paragraph 4.3 of the applicant's Planning Statement sets out that they would be happy to discuss limitations relating to the number of caravans that are able to be occupied, the new and varied occupancy periods and leasing/licensing arrangements. An assessment will be made in relation to the entire relaxation of the conditions for a two year period and the potential to impose alternative conditions.

Development Plan – Settlement Strategy

- 7.1.5. Policy ST1 states that development proposals will accord with the Local Plan Settlement Strategy. The site is located outside the built-up area boundaries that exist within the Swale Borough.
- 7.1.6. The Settlement Strategy is set out at Policy ST3 and, as far as it is relevant to this application, it states that “At locations in the open countryside, outside the built-up area boundaries shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.”
- 7.1.7. The part of the exception that relates to the NPPF can be considered further below but, regardless of any conclusion that is reached in that respect, for reasons that will be set out below, the proposal would not enhance “the intrinsic value, *landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities*”. Therefore, the proposal is contrary to the Settlement Strategy.
- 7.1.8. Policy CP2 states that “*new development will be located in accordance with Policy ST1 to Policy ST7....which minimise the need to travel for employment and services and facilitate sustainable transport.*” The site is located outside the settlement boundary and does not accord with Policy ST1 and ST3 as set out above. Whilst there is no new built development, the altered usage of the site would be new and, as such, the policy CP2 is considered to be applicable and conflicted with.
- 7.1.9. Policy CP4 states that development should “*make safe connections physically and visually both to and within developments, particularly through using landscape design and open space to retain and create green corridors for pedestrians, cyclists and biodiversity.*” Policy CP2 also states that development should “*achieve alternative access to all services through promoting access to sustainable forms of transport particularly bus, cycling and rail transport and improving interchange between them from the earliest stages of development.*”
- 7.1.10. Policy DM6 requires that “developments demonstrate that opportunities for sustainable transport modes have been taken up.” It also states that “*The location, design and layout of development proposals will demonstrate that priority is given to the needs of pedestrians and cyclists, including the disabled, through the provision of safe routes which minimise cyclist/pedestrian and traffic conflict within the site and which connect to local services and facilities [and that] access to public transport is integrated into site design and layout where appropriate.*”
- 7.1.11. Policy DM14 states that development will “*Achieve safe vehicular access, convenient routes and facilities for pedestrians and cyclists, enhanced public transport facilities and services.*”
- 7.1.12. The site is distant from the nearest bus stops and the site is remote from Eastchurch which is served by limited facilities for residents. From this basis, whilst there is a

limited level of access to public transport, those connections are distant and provide a service of limited coverage. Whilst occupiers of the site might cycle, services would be limited and/or distant from the site and, therefore, are unlikely to be regularly cycled to. Therefore, it is considered inevitable that the majority of people at the site will be reliant on private modes of transport. This is true for lawful tourism users of the site and year-round occupiers of the site. However, it is considered that residents would have a different travel pattern and, as such, residential uses should be directed to sites better served by services and facilities capable of meeting their day-to-day needs. Whilst noting the difference between this temporary application and other applications being for the permanent relaxation of the conditions, this finding is consistent with other recent appeal decisions within the vicinity and it is considered that the conflict with the abovementioned policies would arise whether the use is permanent or temporary.

Development Plan – Holiday Parks

7.1.13. The site is allocated in the Local Plan Proposals Map as a Holiday Park. Policy DM4 addresses the provision of new holiday parks, the extension of holiday parks and the provision of new or improved facilities within holiday parks. The content of that policy is not considered to be instructive for the assessment of this application. However, the pre-ambles to that policy provides some context for the consideration of applications related to holiday parks, stressing that a core principle of the NPPF is to proactively drive and support sustainable economic development. It goes on to state that *“Holiday parks provide direct employment and their users support shops, pubs, restaurants and visitor attractions. There can also be other social benefits in that they give work in areas where little alternative employment exists. The changing nature and flexibility of the leisure market and the higher aspirations of customers today are leading to leisure providers continually developing new concepts to respond to consumer needs and aspirations.”*

7.1.14. Local Plan Policy DM5 addresses the occupancy of holiday parks and reads as follows:

In order to ensure a sustainable pattern of development and to protect the character of the countryside, planning permission will not be granted for the permanent occupancy of caravans and chalets. Where it can be demonstrated that higher quality standards of holiday accommodation can be secured, planning permission will be granted for proposals to extend the occupancy of holiday parks between 1 March and 2 January the following year (a 10 month occupancy), provided that:

- 1. The site is not at risk of flooding, unless, exceptionally, applications accompanied by a Flood Risk Assessment (FRA) satisfactorily demonstrating that the proposal would result in no greater risk to life or property and where an appropriate flood evacuation plan would be put in place;*
- 2. The amenity and tranquillity of the countryside and residential areas are safeguarded;*
- 3. The proposals are in accordance with Policies DM 22 and DM 23 relating to the coast and the coastal change management area; and*

4. *Where located adjacent or in close proximity to the Special Protection Areas (SPA), an assessment has been undertaken to determine the level of disturbance to overwintering birds and identified mitigation measures, where appropriate.*

5. *The extension of occupancy is subject to planning conditions safeguarding the holiday accommodation from being used as sole or main residences, as set out in Appendix 2.*

7.1.15. The pre-ambule to the policy highlights the history of most of the holiday parks, noting that 8 month (and eleven days at Christmas and New Year) occupancy restrictions existed in most cases. The supporting text indicates that *“the limited occupancy period was imposed to ensure that these holiday parks were not used as permanent (and sometimes sub-standard) housing (many of which would be in poorly accessible parts of the Borough) and to protect the character of the rural area. Limited occupation also afforded the opportunity to retain a period of tranquillity in rural and other areas. In areas at risk of flooding, permanent occupation over the winter period could also result in risk to life.”*

7.1.16. The supporting text highlighted that *“to give more scope and incentive to enable modernisation and upgrading to take place, the Council considers that there will be occasions when a 10 month occupancy period will be acceptable, which will, in turn, deliver tourism benefits and support for the local economy.”* It goes on to state that Policy DM5 sets out the parameters within which applications to extend occupancy of holiday parks to a 10 month period will be permitted before stating that *“Permanent occupation will continue to be resisted.”*

Condition 2 – Occupancy Period.

7.1.17. This application does not seek the permanent occupancy of the accommodation at the site as the year round occupancy is proposed for a temporary period of 2 years. From this basis, the effect of the application would not be directly contrary to the first sentence of Policy DM5 as it has been written.

7.1.18. However, the application would enable the extension of the occupancy period that is defined in the remainder of the first part of Policy DM5. The policy should be read in the context of the history of the holiday park sites and the earlier iterations of the development plan which imposed an 8 month (plus 11 days at Christmas and New Year in some cases) occupancy limitation. Paragraph 7.1.27 of the Local Plan states that *“to give more scope and incentive to enable modernisation and upgrading to take place, the Council considers that there will be occasions when a 10 month occupancy period will be acceptable.”* Whilst the Policy allowed for an increased occupancy period up to 10 months, subject to conditions, there is no indication that this would be able to be extended to 12 months in any circumstances, on a temporary or permanent basis.

7.1.19. From this basis, the proposed relaxation of the condition to enable year round occupation, albeit only for two years, would be contrary to the objectives of Policy DM5. Having regard to the potential to impose alternative conditions, any occupancy

exceeding 10 months would be contrary to the aim of the policy. It is clear from the application submissions that the intention is to enable occupiers to be resident at the site on a year round basis and, therefore, any mid-ground occupancy period would be contrary to the intentions of the applicant.

Conditions 2, 3 and 4 – Main Residence Restriction and Record Keeping.

- 7.1.20. Turning to the criteria that are set out within Policy DM5, it is considered relevant that the assessment of these matters is only applicable in the context of the abovementioned occupancy limitation being complied with. Notwithstanding this, the criteria give a direction as to the key material considerations for this application. The matters addressed by criteria 1 to 4 of Policy DM5 are addressed in the relevant sections below.
- 7.1.21. For reasons that will be set out below, the variation of conditions in effect at the site would cause the use of the site to conflict with Criteria 2. There would be a technical conflict with Criteria 1 as the site is at very low risk of surface water flooding but, for the reasons also set out below, it is considered that no objection should be raised to the application on the grounds of flood risk as no harm would arise. In relation to Criteria 4, there is grounds to object where no mitigation provisions are secured but it is expected that this would be able to be resolved. Again, this will be considered further below.
- 7.1.22. With respect to Criteria 3, the site is outside the coastal erosion zone and the Coastal Change Management area. Therefore, no objection is raised on those grounds.
- 7.1.23. In respect of Criteria 5, the planning conditions set out at Appendix 2 of the Local Plan are fundamentally the same as appear within existing conditions 2, 3 and 4 that currently apply to the permitted use at the site, as detailed above. The application seeks to vary these conditions. By varying these conditions, the development would no longer accord with Policy DM5 and the limitations that are fundamental to holiday parks to benefit from 10 month occupancy periods. Consequently, an application to use the site without complying with those conditions is in conflict with Policy DM5.
- 7.1.24. Amongst other relaxations, the primary effect of this would be to enable the accommodation at the site to be used as a persons primary residence. This is corroborated by the Applicant's Planning Statement which states that many of the existing occupants do not have an alternative permanent address and would be made homeless if the application site was made uninhabitable during the two-month closed season. This means that these caravans are the sole residence for these occupants and the relaxation of the subject conditions and year-round occupation of these sole residences would constitute their operation, for a two-year period, as dwellings rather than as tourist accommodation. This is entirely contrary to the designation of the site within a holiday park and the associated policies that are discussed above.

Temporary Effect of Variation

- 7.1.25. The application seeks the relaxation of conditions for a temporary period and, as such, the application is considered to be seeking what is tantamount to a temporary planning permission, which is enabled by Section 72 of the Act. Planning Practice Guidance states that *“Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period.”*
- 7.1.26. The application is not being advanced as a ‘trial run.’ The case of the applicant is that planning circumstances might change at the end of the proposed two year period as they are seeking to advance proposals to develop the site. This is evidenced by virtue of a Screening Opinion (25/504264/ENVSCR) which has been sought for the development of this site, along with other land that is within the applicant’s control and is referenced in the planning history section above. This has been referred to as a “meanwhile use” by the applicant which is described in the Planning Practice Guidance as a temporary use of vacant land or buildings prior to any longer term proposals coming forward. The site is not vacant and so this is not directly relevant. However, whichever element of the PPG is drawn from, it is the case of the applicant that the proposal should be considered as a temporary situation until a permanent re-development of the site is brought forward.
- 7.1.27. At this stage, there can be no guarantee that the re-development of the site in the manner described would be granted planning permission. Whereas a ‘meanwhile use’ might be beneficial by bringing activity to a site that is vacant, that benefit would not arise here as, if not approved, the site would retain its lawful use and caravans would continue to be kept at the site. Conversely, putting the site to use outside the period that is defined by conditions would actively derive harm as a result of the impact on tranquillity that will be considered further below. From this basis, it is considered that negligible or very limited weight should be given to the suggestion that an alternative development might replace the existing or amended situation in the future and that no benefit would arise from the ‘meanwhile use’ of the site that is suggested by the applicant.

Number of Caravans Affected

- 7.1.28. The applicant’s submissions have addressed this application along with the other adjacent sites that are within their control. As such, site specific details are difficult to ascertain. However, it is indicated at paragraph 3.5 of the applicant’s submissions that there is a capacity of approximately 1197 units at the overall land holding and at least 200 of them have been occupied in breach of the abovementioned conditions. It is understood that the sites within the applicant’s control are not the only holiday parks where a breach of condition has taken place.
- 7.1.29. Should this and the other concurrent applications be allowed in the broadest of terms, all of the units would be able to be occupied throughout the prescribed period. This

would far exceed any need to accommodate a number of the occupiers of the 200 or so caravans that have been indicated to have been occupied in breach of the restrictions previously. To allow the relaxation of the conditions for all of the caravans would not only address the existing breach that has occurred but potentially give rise to a far increased level of occupancy that would present greater issues at the end of the temporary period than would otherwise be the case. Unless precision was included in relation to the number of caravans occupied, the site could attract occupiers from other sites. That might be of benefit to enabling other sites to comply with their conditions, but it could increase the number of residents at the applicant's holding who, in 2 years time, might have an even greater expectation of being allowed to stay at the site year-round.

- 7.1.30. It is noted within the applicant's submissions that they would be willing to discuss conditions, including a condition that could restrict the number of caravans that can be occupied. Such a discussion has not occurred. However, if minded to approve, it would be necessary to discuss the number of caravans that can be occupied on this site and attempt to imbed that into a condition that meets the applicable tests. Such a condition could also attempt to secure a lower number in the second year to give the Council comfort that the applicant is working towards reducing the number of persons that occupy the site in breach of the planning conditions.
- 7.1.31. However, enforcing such a condition would be riddled with difficulties, particularly on a caravan site where (notwithstanding the comments of the applicant that many of the caravans would not be able to be moved without being damaged) should be capable of being moved. Whereas a blanket restriction on occupation is enforceable, identifying which caravans are occupied and which are not, would be inherently difficult if not virtually impossible. For example, if a limit was reached, how would a person attempting to enforce that limit know which caravan should be enforced against. A plan would be required to specifically identify which caravans would be occupied but no such plan has been submitted and there is no current way available to be able to identify specific caravans.

Housing Supply

- 7.1.32. Swale Borough Council cannot demonstrate a five year housing land supply. Therefore, where a proposal relates to the provision of housing, the approach set out at paragraph 11d) of the NPPF is applicable.
- 7.1.33. Setting aside the conflict with the development plan, caravans in C3 use are able to count towards Housing Supply, and the use of the site as housing could count towards the supply of housing within the Borough. Depending on the approach taken to the number of caravans that the relaxation would apply to, this could be any number up to 1,197 units across the applicant's overall holding, of which 269 units are at this site. However, this 'supply' would only exist for 2 years and, as it would have to be discounted within the same assessment period, such temporary accommodation is not counted in the Council's 5 year housing land supply.

- 7.1.34. It is considered that a temporary housing supply boost can only be given limited weight as a planning benefit. It is not effectively addressing any housing shortfall as that shortfall would return in 2 years and it is not considered that caravan accommodation, which the applicant recognises is in poor condition, is a sustainable solution to addressing housing needs. It is recognised that a need is derived from the historic breaches of the conditions at the site and that the NPPF indicates that a sufficient amount and variety of land should come forward for housing, where it is needed and that the needs of groups with specific housing requirements are addressed.
- 7.1.35. The applicant identifies that the site and the wider land holding has been used to accommodate people on a year-round basis. This has been in breach of the abovementioned conditions and could be liable to enforcement action. This has created a situation where year-round occupiers are present and reliant on the accommodation. To refuse this application would result in it continuing to be the case that year round occupation would be in conflict with the abovementioned conditions and a breach of planning control, with harms that are identified elsewhere in this report. It is therefore considered that the future 'need' for housing that has been generated by the past breaching of planning conditions at the site needs to be weighed against the harms and conflict with national and local planning policies.
- 7.1.36. The applicant has indicated that occupiers would be made to leave the site from January 2026. Some of those occupiers might have no alternative accommodation available and, as such, could present themselves to the Council as homeless. The needs of the local population should be a material consideration and will be considered. The duty on the Council to accommodate any persons that are caused to be homeless could create considerable difficulties for the Council and it is a key component of the applicant's case that allowing the application would avoid implications for other services of the Council, primarily the Council's Housing Team who would potentially see a sharp increase in demand, with the cost and labour implications.
- 7.1.37. In this regard, it is considered relevant that the Council is not hereby deciding whether or not to serve a Planning Enforcement Notice or a Breach of Condition Notice at the site. The decision of the applicant to comply with planning conditions if this application is refused, which should be a fundamental requirement, would be a decision for the applicant. The problem that may or is likely to exist around persons being homeless is a consequence of the unlawful occupation of the site that is understood to have been enabled by the applicant's predecessors. Accommodating people that might not have alternative accommodation can be viewed as a benefit of granting planning permission. However, this could also be achieved by not enforcing the conditions or by the chosen form of enforcement.
- 7.1.38. A factor that is considered to be important to this assessment is the quality of the accommodation at the site. The pre-amble to Policies DM4 and DM5 identify that some of the Borough's accommodation of this type is of poor quality and in need of improvement. Consistent with this, the applicant's own Planning Statement sets out that some of the accommodation at the site is of poor quality, with their submission

stating that the caravans are old and liable to break if moved. In the absence of any form of detailed assessment of the quality of the accommodation, it is considered appropriate to give weight to a visual inspection of the site which suggests that much of the accommodation is not likely to accord to modern standards. Whilst it is expected that occupiers will value this accommodation and it is noted that reference has been made to the existence of a community spirit at the site and the holding in general, it is considered that the reliance on living accommodation that might not accord with modern standards should not be considered to be sustainable. In this regard and giving consideration to the potential to use a condition that limits the number of caravans, there is no evidence available to suggest whether those residents in the greatest need would have access to the best-kept caravans or those at the other end of the quality and maintenance range.

- 7.1.39. The proposal being a 'meanwhile use' is considered to weigh against the suggestion that the proposal would address a homelessness situation from occurring. It is acknowledged that the temporary availability of accommodation could provide a short-term solution to the existing hidden homelessness. However, it is integral to this that the applicant intends to bring the current situation to an end and re-develop the site. This would not address the situation in the medium term and, whilst occupiers would have a 2 year opportunity to find alternative accommodation, they would equally have 2 years to become more imbedded at the site and, potentially, develop a hope or expectation that a further year round occupancy will be provided in the future. There can be no certainty that the future proposals at the site would (or would not) be available to the current occupiers at the site and therefore, even noting that the temporary permission would afford those residents additional time to find alternative accommodation, it is likely that they would have to leave the site in due course in any case. Whilst a relocation management plan to guide occupiers to suitable accommodation prior to the end of the temporary period might have been able to be explored and been the subject of a condition, it is considered that there could be little comfort or certainty that such a plan would be effective and, in the circumstances that have been detailed by the applicant, it is not clear how a phased reduction of occupiers at the site would be able to be achieved. The proposal would be as likely to postpone any problems rather than address them.

Tourism and Economic Development Considerations.

- 7.1.40. Policy CP1 of the Local Plan seeks to safeguard or enhance Swale's 'Principal Tourism Assets' and to consolidate or widen the tourism potential of the borough. Holiday parks are listed under the borough's 'Principal Tourism Assets' and the supporting text sets out that these should be protected from inappropriate development. Policy ST6 seeks to support the existing tourism offer on the Isle of Sheppey and the supporting text to this policy emphasises the importance of tourism to the economy of the Isle of Sheppey. Policy DM3 promotes rural tourism and makes clear that residential development should not be permitted at the expense of rural employment. The supporting text to policy DM4 states that holiday parks provide direct employment and support shops, pubs, restaurants and visitor attractions.

- 7.1.41. Whilst the comments of the applicant relating to the manner in which the site has not operated as a conventional holiday destination are noted, to formally change the use of the site (even for a temporary period) would compound the loss of holiday accommodation and reduce the tourism offer that exists and is of significance to the local economy. This would be contrary to the above policies that seek to safeguard and enhance tourism and to prevent the use of holiday parks as a person's main residence.
- 7.1.42. No detailed information has been provided to demonstrate why the accommodation is not suitable for holiday use and there is no evidence that demonstrates insurmountable difficulties to use the units as holiday accommodation. The residential use of the site would undermine the clear strategies in the adopted local plan to promote and increase the tourism offer in the borough and on the Isle of Sheppey, where tourism plays a vital role in the local economy. In this regard the change of use is contrary to policies CP1, ST6, DM3, DM4 and DM5 of the Local Plan.
- 7.1.43. It is considered that these policies are consistent with the NPPF as paragraph 88 of that document states that planning decisions should enable “...*the sustainable growth and expansion of all types of business in rural areas and sustainable rural tourism and leisure developments which respect the character of the countryside*”.

Other Conditions

- 7.1.44. As set out above, regard has to be had to the use of other conditions. In this case, it is considered that any period of occupancy beyond 10 months would conflict with policy DM5, albeit potentially to a lesser degree.
- 7.1.45. Similarly, whilst a limitation on the number of units able to be occupied would reduce the scale of conflict, any occupancy contrary to the current conditions would inherently be in conflict with the development plan.
- 7.1.46. There are other materials considerations to consider in relation to this case, which will be addressed below. However, it must be a crucial consideration that the variation of condition, as sought or any comparable version of that amendment, would cause the development at the site to be contrary to the development plan and, at least in part, the NPPF.

Other Matters Related to Principle

- 7.1.47. As set out above, it is noted that the occupancy restriction conditions are likely to have been breached at the site. However, no case has been made by the applicant that these breaches have occurred for a sufficient time for any breaches to have become lawful and no Certificate of Lawfulness has been applied for to this effect. Consequently, it is not known that there is a fallback position to afford any weight in the assessment of this application.

7.1.48. Summary in Relation to the Principle of the Variation of Conditions

For the reasons set out above, the relaxation of the conditions that currently exist would be contrary to the development plan. The harms arising from this will be considered below and weighed against the benefits of supporting the applications within a planning balance assessment.

7.2. **Heritage**

- 7.2.1. Any planning application for development which will affect a listed building or its setting must be assessed in accordance with the requirements of section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires a local planning authority to have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest which it possesses.
- 7.2.2. The NPPF states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan.
- 7.2.3. There are heritage assets within the general locality near to the site but these would not be directly impacted upon by the proposal, this includes the Grade II listed buildings at Connetts Farm, Trouts Farm and Palm Trees Holiday Park. Any impacts on the setting would be limited to that caused by additional activity in the area arising from the additional usage of the site. In this instance, and having had regard to the Council's obligations pursuant to the Planning (Listed Building and Conservation Areas Act) 1990, it is considered that the additional activity would not be harmful to the aural setting of those heritage assets and, therefore, there would be no conflict with Policy DM32 of the Local Plan or the heritage section of the NPPF. Due to the distance between the site and the Grade II* listed Shurland Hall and the arrangement of that site relative to the highways that would be affected by the additional use, the proposed increased activity is not considered to impact on the setting of that listed building.

7.3. **Ecology**

- 7.3.1. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by Policies CP7 and DM28 of the Local Plan, which relates to the protection of sites of international conservation importance including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar Sites.

Protected habitats

- 7.3.2. Section 40 of the Natural Environment and Rural Communities Act (2006) states *“For the purposes of this section “the general biodiversity objective” is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England” and “A public authority which has any functions exercisable in relation to England must from time to time consider what action the authority can properly take, consistently with the proper exercise of its functions, to further the general biodiversity objective.”* Furthermore, the NPPF states that ‘the planning system should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity.’ The NPPF states that ‘if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.’
- 7.3.3. In terms of the Local Plan, Policy DM28 sets out that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.
- 7.3.4. The site is in proximity to the Swale Special Protection Area (SPA) and Ramsar site and the Medway Estuary and Marshes SPA and Ramsar site and Outer Thames Estuary SPA. The sites are designated because they provide important habitats for wintering, migratory and breeding waders, seabirds, waterfowl and other birds (the qualifying features). Their conservation objectives are to maintain or restore their integrity by maintaining or restoring the extent, distribution, structure, function and supporting processes of the habitats of the qualifying features, the population of each of the qualifying features, and the distribution of the qualifying features within the site.
- 7.3.5. Increased visits and recreational use by occupiers within proximity to the habitats sites are likely to disturb the qualifying features. This can affect their ability to feed, rest, and nesting, constituting Likely Significant Effects upon them. Though the magnitude of Likely Significant Effects would be dependent upon occupancy rates, this proposal would result in greater occupation of the site for a temporary period, within a distance of habitats sites where it is identified there would likely be increased visits from occupiers, with Likely Significant Effects, upon the qualifying features. A strategic package of measures to mitigate the effects of recreational pressure and disturbance are set out in the Thames, Medway and Swale Strategic Access Management and Monitoring Strategy. This is based upon a costed tariff, to fund mitigation measures for each unit or scheme. To effectively mitigate the Likely Significant Effects, the contributions must be secured, and mitigation undertaken prior to occupation.
- 7.3.6. In response to this application Natural England have confirmed that the proposal would impact upon the integrity of the habitats sites and qualifying features, if un-mitigated. This is also supported by the KCC Ecologist. Any increase in the occupation period, even on a temporary basis would mean there would be some effects and, as such, proportionate mitigation needs to be secured.

- 7.3.7. As with any planning application, the request for financial contributions needs to be scrutinised in accordance with Regulation 122 of the Community Infrastructure Regulations 2010 (which were amended in 2014). These stipulate that an obligation can only be a reason for granting planning permission if it is necessary, related to the development and reasonably related in scale and kind. Whilst it is unusual to seek planning obligations from a temporary planning permission, for the reasons given above it is considered that it would meet all of the applicable tests to do so in this case. To make this proportionate, the amount of contribution would need to be reflective of the period of increased occupation and the two year duration of the temporarily increased population. Moreover, the conventional contribution needs to be reduced as it relates to two months of the relevant 'wintering' period. Based on the current SAMMs rate, this would amount to £2.73 per unit. For the reasons set out above, the overall sum could fluctuate if any permission granted relates to all of the caravans at the application site or a reduced number.
- 7.3.8. At the time of preparing this report, the necessary mitigation has not been secured and, as such, there is a conflict arising with the abovementioned legislation and policies. It is, however, expected that this would be resolvable and it is clear from communications received that the applicant would be willing to address this matter. The absence or securing of mitigation has a material effect on planning balance considerations and, as such, both scenarios will be considered fully below.

On-Site Protected Species

- 7.3.9. No physical works are required and there is no basis to assume that the proposed variation of the occupancy period and other applicable restrictions would have any impact on protected species at the site.

Biodiversity Net Gain (BNG)

- 7.3.10. This application was submitted after the commencement of Mandatory Biodiversity Net Gain. However, the applicable guidance is clear that this does not apply to section 73 permissions where the original permission which the section 73 relates to was either granted before 12 February 2024 or the application for the original permission was made before 12 February 2024. That is the case here and, as such, there is no BNG requirement arising from this application.

7.4. Transport and Highways

- 7.4.1. Local Plan Policies CP2 and DM6 promote sustainable transport through utilising good design principles. They set out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm. Policy DM7 of the Local Plan requires parking provision to be in accordance with the Council's Parking SPD. The site is also reliant on the use of a designated rural lane and, as such, policy DM26 is applicable.

- 7.4.2. The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. A core principle of the NPPF is that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.”

- 7.4.3. The proposal would not increase the amount of accommodation at the site and there would be no alterations to the access to the site. Whilst the duration of the use would extend and the amount of annual vehicle movements can be expected to increase as a result, there is no reason to conclude that the extended occupancy periods would be used at a greater intensity than the currently authorised periods. Noting that the traffic associated with the use can already occur for 10 months of the year and presumably be more intensive in the summer period, it is not considered that the additional traffic arising from the 2 month winter period would have a severe impact on traffic that would conflict with the above extract of the NPPF. Moreover, there would be no requirement to provide additional parking. The variation of the condition would not, therefore, be in conflict with the abovementioned policies.
- 7.4.4. The effect of additional traffic on living conditions of nearby residents will be considered below.

7.5. **Air Quality**

- 7.5.1. The importance of improving air quality in areas of the borough has become increasingly apparent over recent years. Legislation has been introduced at a European level and a national level in the past decade with the aim of protecting human health and the environment by avoiding, reducing or preventing harmful concentrations of air pollution.
- 7.5.2. Policy DM6 of the Local Plan sets out that development proposals will integrate air quality management and environmental quality into the location and design of, and access to development and in so doing, demonstrate that proposals do not worsen air quality to an unacceptable degree.
- 7.5.3. The NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing new/existing development from contributing to or being put at unacceptable risk from, or being adversely affected by, inter alia, unacceptable levels of air pollution. It also requires the effects of air pollution and the potential sensitivity of the area to its effects to be taken into account in planning decisions.
- 7.5.4. The Planning Practice Guidance on Air Quality (Paragraph: 005 Reference ID: 32-005-20191101) states that:

“whether air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to have an adverse effect on air quality in areas where it is already known to be poor, particularly if it could affect the implementation of air quality strategies and action plans and/or breach legal obligations (including those relating to the conservation of habitats and species). Air quality may also be a material consideration if the proposed development would be particularly sensitive to poor air quality in its vicinity.

- 7.5.5. Given that the application is a major application (being on land that is more than a hectare), an Emissions Mitigation Assessment should have been submitted. In this instance, noting that the application relates to the variation of a condition to enable what is effectively 4 months of additional occupation (two months during each of two years), with no additional built development occurring, it is considered that any air quality impact would be limited. The site is not within or near an Air Quality Management Area and there is no reason to conclude that the proposal would have any more than a negligible impact on such an area through increased traffic occurring within those 4 months. From this basis, whilst there is a technical conflict with the Council’s Air Quality and Planning - Technical Guidance and, in turn, Policy DM6, it is considered that there would not be harm to air quality arising from this conflict that would represent a sound basis to object to the temporary effect of the development. In this respect it is noteworthy that the Council’s Environmental Health Officer has not raised any objection on this ground to any of the group of similar applications that are currently pending determination.

7.6. Flood Risk, Drainage and Surface Water

- 7.6.1. Policy DM21 of the Local Plan and the NPPF requires that Local Planning Authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed. Moreover, Policy DM5 indicates that flood risk can be a material consideration in assessing proposals to extend the occupancy period of holiday parks.
- 7.6.2. The site is located within Flood Zone 1 in terms of fluvial and tidal flooding. In terms of surface water flooding, the Environment Agency Flood Risk map shows very minor elements of the site as being liable to surface water flooding. In this instance, noting the nature of the application, it is considered that the application passes the sequential test as it relates to the variation of an existing permission and therefore, by default, the application could only have been submitted in respect of the land at this site. Whilst no Flood Risk Assessment has been submitted, the small pockets of surface water flooding that are likely to occur would be of such negligible scale that it is not considered that the development would be unsafe if occupied through the additional months, even noting that rainfall and ground saturation is likely to be highest at this time. The absence of a flood risk assessment is a technical conflict with the abovementioned policies and the NPPF but, taking an approach that is similar to that taken by the Inspector in appeal APP/V2255/W/24/3350524 (Ham Road, Faversham), it is considered that there would be no real-world harm arising from the proposals and no increased risk of flooding on or off site as there would be no physical development proposed.

7.7. Impact of Additional Activity on Living Conditions and Countryside Tranquillity

Existing residents

- 7.7.1. Policy DM14 of the Local Plan and the NPPF requires that new development has sufficient regard for the living conditions of neighbouring occupiers. Of specific relevance to holiday parks and their occupancy period, Policy DM5 indicates that the amenity and tranquillity of residential areas is to be safeguarded. Tranquillity, to local residents and the countryside locality in general will be considered further below. However, in relation to other matters such as light, privacy, outlook and other such direct impact impacts, no additional impacts would be caused and so no objection is raised.

Site Occupiers

- 7.7.2. The accommodation at the site would not be altered by the proposed variation of condition. Regard is had to the current users of the site elsewhere in this report but, in terms of light, privacy, outlook, and other such direct impacts, it is not considered that there would be a worsening of conditions that would represent a ground to object to the application.

Countryside Tranquillity

- 7.7.3. In addition to the extract of Policy DM5 that is referenced above, the pre-amble to the policy advises that one of the purposes of the limitation on the occupancy period is to retain a period of tranquillity in rural and other areas. In the recent appeal with respect to a similar proposal at Vanity Farm Camp (APP/V2255/W/24/3356382), the Inspector found that the policy is consistent with National Planning Policy Framework objectives in respect of protecting local character, seeking to strike a balance with other competing policy objectives such as in respect of economic development and tourism. This approach is also consistent with Policy ST3 which identifies that within the open countryside, development will not be permitted unless it contributes to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities. The current restriction, in part, creates a period of tranquillity that accords with this policy aim.
- 7.7.4. Whether the extended occupancy period is afforded to all of the units at the site or a smaller number to reflect the number of residents that have previously occupied the site in breach of conditions, the extended occupancy period would undermine the period of tranquillity through additional activity. Traffic, congestion, noise and tranquillity all vary according to the season and the restriction on occupancy is intended to provide local residents with a quiet period to appreciate the rural surroundings. The occupation of the application site throughout the year would bring

about activity, noise and traffic in winter months that would be harmful to rural character and would clearly conflict with Policy DM5 of the Local Plan.

7.7.5. It is considered relevant to note that this matter has previously been tested at one of the site's within the applicant's control, Brookside Park. At appeal APP/V2255/W/21/327474, the Inspector found that *"The conditions securing the closure of the appeal site during the winter months ensure that permanent residents locally are able to experience the tranquillity of the area when it is free from visitors. Their proposed removal would mean that the site would remain open during the currently closed winter months, harming this existing character by removing the respite and tranquillity during this period. In addition, if permanent residential use were allowed of the caravans, then this would make it likely that the character of the site would change when in occupation during the summer months."* That Inspector went on to identify longer term impacts which are not relevant to this application. The Council has also previously reached a similar view with respect to an application at the nearby Beverley Camp and an Inspector reached a similar view in relation to the appeal at Vanity Farm Camp, which is within the applicant's wider holding. It is noted that the impact would be temporary and, therefore, different to that which was experienced in those cases. However, there would still be an impact for that period that is contrary to the aims of the development plan.

7.7.6. For this reason, the impact on the character of the area arising from the disturbance and the associated effect on tranquillity, would be contrary to policies ST1, ST3 and DM5 of the Local Plan and the NPPF.

7.8. Other matters

7.8.1. No additional built form or caravans are proposed as part of the proposed variation of condition and, as such, there would be no additional structures or items at the site. From this basis, there would not be any additional visual impact or any additional effects on open space demand or provision, trees, archaeology, erosion or contamination.

7.8.2. Given that the effect of the variation of the condition would be temporary, for a two year period, and only effectively have an effect for a total of 4 months across that time, it is not considered that it would be reasonable to secure any other planning obligations or community infrastructure provisions, other than that which is addressed elsewhere in this report which is required to directly mitigate an effect arising from the proposed variation of condition. For similar reasons, it is not considered that it would be reasonable to require the site to achieve renewable energy generation or energy/water efficiency improvements and, therefore, no objection is raised by Officers on the grounds that the proposed variation would not address the requirements of Policy DM19.

- 7.8.3. The applicant acknowledges and it is known that there have been periods where the conditions referred to above, potentially at this site as well as other holiday parks with comparable conditions, have been breached. This has continued to a point where it is known that some users of the holiday parks in this area have used them as the main residence. Within their Planning Statement, the applicant indicates that this could amount to 400 or more people occupying 200 or more caravans at the sites that are in their control. This application site is likely to account for a portion of that unauthorised occupation. Any under-enforcement that has occurred is not considered to be reason, in itself, to conclude that the conditions no longer serve a purpose or should be set aside for a temporary period. Enforcement is discretionary and, if any breaches are brought to the Council's attention, in accordance with the Planning Enforcement Strategy, the Council would have choices to make around whether to enforce and, if applicable, how to enforce. The conditions that exist are considered to meet the relevant tests of enforceability and reasonableness and, as such, these are not grounds to vary the conditions.
- 7.8.4. The applicant has indicated that options have been explored relating to limiting the breach by moving all year-round users of the wider holding into a single part of the site. However, this has been deemed to be impractical for several reasons.

Interim Policy Statement

- 7.8.5. The Full Council adopted an interim planning policy on park homes on 17 June 2020 as 'a material consideration that will hold some weight in the consideration of applications for park home proposals'. However, the interim policy is considered to hold limited weight given that it was not progressed via the development plan process, and has not been subject to scrutiny through consultation and examination. This approach has been supported at subsequent appeals including those at Plough Leisure Caravan Park, Brookfield Park, Golden Leas Holiday Park and Estuary View Caravan Park
- 7.8.6. The interim policy sets out a list of criteria for compliance. This includes the requirement that the site is in a sustainable location with access to services and facilities, and other criteria which, in some cases the proposals would comply with but in others, it has not been demonstrated that the proposal would comply, the accommodation meeting identified standards for example. It is set out elsewhere why these specific matters are a concern in relation to this application. Therefore, given the limited weight that should be attached to this interim policy, together with the conflict in any case with its criteria, it is still considered that the application is unacceptable.

Human Rights Act and Public Sector Equality Duty (Equality Act 2010)

- 7.8.7. The applicant states at several locations within their Planning Statement that some of the users of the site have health conditions and it is noted that some will consider the caravans to be their homes. In terms of personal circumstances of the site users, the applicant has not provided any specific details. No representations have been

received detailing any specific considerations that the Council is required to have regard to. The Council has a duty to have due regard to the Public Sector Equality Duty as detailed within the Equality Act 2010 and the Human Rights Act 1998.

- 7.8.8. In line with the Human Rights Act 1998, it is unlawful for a public authority to act in a way which is incompatible with a Convention right, as per the European Convention on Human Rights. The human rights impacts that are most relevant to planning are Article 1 of the First Protocol (Protection of property), Article 8 (Right to respect for private and family life) and Article 14 (Prohibition of discrimination) of the Convention.
- 7.8.9. Where the peaceful enjoyment of someone's home and/or their private life is adversely affected, their Article 8 and/or Article 1 of the First Protocol rights may be engaged. The loss of other forms of property (e.g. business premises) may engage rights under Article 1 of the First Protocol. These rights are both what are known as 'qualified rights', that is, they are not absolute rights but involve some form of balancing exercise between the rights of the state to take various steps and the rights of the individual or other affected body/organisation.
- 7.8.10. In the case of Article 8 rights, the interference must be in accordance with law and be considered necessary in the interests of national security, public safety or the economic well-being of the country, for the prevention of crime/disorder, for the protection of health/morals or for the protection of the rights and freedoms of others
- 7.8.11. In the case of *RLT Built Environment Ltd v Cornwall Council* (a judicial review from 2016), the Court drew out a number of points concerning how to approach the loss of a home in the context of the planning process. The points set out by the Court were as follows:
- I. Article 8 does not give a right to a home, or to a home in any particular place.*
- II. However, where someone has a home in a particular dwelling, it may interfere with the article 8 rights of him and/or his family to require him/them to move.*
- III. Whilst those rights demand "respect", they are of course not guaranteed. In this context, as much as any other, the public interest and/or the rights and interests of others may justify interference with an individual's article 8 rights.*
- IV. Where article 8 rights are in play in a planning control context, they are a material consideration.*
- 7.8.12. Any interference in such rights caused by the planning decision has to be balanced with and against all other material considerations, the issue of justification for interference with Article 8 rights effectively being dealt with by way of such a fair balance analysis.

That balancing exercise is one of planning judgment.

Article 8 rights are, of course, important: but it is not to be assumed that, in an area of social policy such as planning, they will often outweigh the importance of having coherent control over town and country planning, important not only in the public interest but also to protect the rights and freedoms of other individuals”.

7.8.13. In terms of Article 1 of the First Part, this provides as follows:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No-one shall be deprived of his possessions except in the public interest and subject to conditions provided for by law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

7.8.14. There are three key rules. The first is the principle of peaceful enjoyment of property. The second covers the deprivation of possessions and subjects it to certain conditions. The third recognises that that property can be controlled in the general interest.

7.8.15. Claims under any of the three rules need to be examined under four headings:

- I. Whether there was an interference with the peaceful enjoyment of “possessions”;*
- II. Whether the interference was “in the general interest”;*
- III. Whether the interference was “provided for by law”;*
- IV. Proportionality of the interference.*

7.8.16. In terms of assessing the proportionality of the interference, domestic case-law (Thomas v Bridgend County Borough Council in the Court of Appeal [2011], applying the European case of Bugajny), has summarised the approach as follows:

“The cases show that the issue of proportionality can be expanded into the following question:

“whether the interference with the applicants' right to peaceful enjoyment of their possessions struck the requisite fair balance between the demands of the general interest of the public and the requirements of the protection of the individual's fundamental rights, or whether it imposed a disproportionate and excessive burden on them.” (Bugajny [...] para 67).”

7.8.17. Article 14 of the Convention deals with the requirement for Convention freedoms to be available to all on a non-discriminatory basis. Article 14 is not a free-standing right in the same way as the other Articles that are mentioned above.

7.8.18. In line with the Public Sector Equality Duty (‘PSED’) the Council must have due regard to the need to eliminate discrimination and other forms of less favourable treatment such as harassment and victimisation, and to advance equality of opportunity and

foster good relations as between persons who share a protected characteristic and persons who do not share it. The PSED is set out in section 149 of the Equality Act 2010. A protected characteristic for these purposes is age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. Advancing equality will amongst other measures remove or minimise disadvantages suffered by people due to their protected characteristic and take steps to meet the needs of people from protected groups where these are different from the needs of other people.

- 7.8.19. In planning terms, the potential impacts of a proposal on an individual or on groups of individuals should be addressed by the decision-maker as a material consideration. In balancing this against other material considerations, the decision-maker should also ensure that they give due weight to what is required by their statutory duties, including the requirements of the PSED.
- 7.8.20. If planning permission were refused, then occupation of the units at the site would be restricted to the existing 10 month period that is defined by the permission and in alignment with development plan policy. The occupiers would be required to vacate their units for most of January and all of February each year and would only be permitted to use the units for holiday/recreational use.
- 7.8.21. In terms of Article 8 rights (that is, the right to respect for the home and private life), the right is engaged by virtue of the continued inability to use the homes on the park for most of January and February in each of the two years. If the conditions are correctly followed, the occupiers will be required to find alternative accommodation. The question is whether the interference with the rights of affected individuals can be considered proportionate and necessary and so able to be justified under the second limb of Article 8. This involves weighing the interference against other material considerations in order to arrive at a fair balance between the interests of the individual and the interests of the community as a whole.
- 7.8.22. Development plan policy does not support year-round occupation of the Borough's holiday parks. Condition 2 of the effective planning permission aligns with this and the conditions that are in effect also require the caravans to be used for holiday and recreational use only, preventing the caravans being occupied as a sole or main residence. The occupants of the site would be required to move out of their park homes for at least two months of each year and would not be able to use the homes as a sole or main residence. Officers acknowledge that this could be disruptive or highly disruptive for those affected
- 7.8.23. Some groups are likely to be more sensitive than others to displacement. The proportion of the occupiers of the site that might consider themselves to fall within these groups has not been made clear but, based on the applicant's submissions, including but not limited to the incident record that has been provided at Appendix 5 of the Applicant's Statement, it is considered appropriate to proceed on the basis that this would affect some persons with protected characteristics.

- 7.8.24. Taking into account the nature of the impact on the existing occupiers, officers consider the benefits of resisting unplanned residential development in an unsustainable location and protecting the rural character of this part of Sheppey, which is in the public interest, would outweigh any interference with the rights of the individual under Article 8.
- 7.8.25. As regards Article 1 of the First Protocol rights in relation to residential occupiers, officers have proceeded for the purposes of assessing this application on the basis that this right is engaged by the temporary displacement from the caravans on the site each year and the restriction on occupation of the caravans as a sole or main residence. That interference can be regarded as being in the general interest, with the operation of the planning system being a legitimate interest of the state
- 7.8.26. Refusing a planning application has different implications to taking enforcement action. Whilst a refused planning application does not resolve a situation or provide comfort, neither does it, in itself, cause or require the cessation of the unauthorised use. In this case the granting of planning permission would provide certainty for residents for a 2-year period, but it would not be until positive action to require the removal of residents takes place that the Council would be responsible for making persons homeless. There would be options open to the Council in relation to enforcement. It is considered that the proportionality of refusing a planning application as opposed to taking enforcement action has to be a consideration in this case, particularly in light of the limited period of respite that would be afforded to occupiers. In this respect, the implication of the Human Rights Act is considered to be different to an application relating to the permanent use of a site or a decision whether to take enforcement action.
- 7.8.27. In officers' assessment, taking account of the nature of the impact on residential occupiers, the proposed mitigation measures and the public benefits of the scheme, a fair balance is arrived at between the protection of the rights of affected individuals and the interests of the wider community and a disproportionate or excessive burden would not be imposed.

7.9. **Planning Balance – Benefits and Harm**

- 7.9.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.9.2. The amended restrictions would enable harm to tranquillity. The proposal would also be contrary to the authorised use and allocation of the site as a holiday park, thereby undermining its intended use as a driver of tourism and the associated economic activity that derives from tourism, which is important to the local economy. For these reasons and due to the site being located in the countryside, the proposal is contrary to the development plan Settlement Strategy. Therefore, the application conflicts with policies ST1, ST3, ST6, CP1, CP2, DM3, DM4 and DM5 of the Local Plan. Moreover,

whilst it would be resolvable, the proposal fails to mitigate its impact on designated habitat sites, which conflicts with policy ST1, CP7, DM14 and DM28 of the Local Plan. Therefore, while no objection is raised on the basis of the application of other policies, the development plan as a whole indicates that planning permission should be refused.

- 7.9.3. The NPPF is a material consideration and as the Council are unable to demonstrate a 5-year supply of housing land, paragraph 11.d of the NPPF is engaged. This states the following:

“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.”

- 7.9.4. In this case, as per part (i) and as a result of the impact on designated habitats not being mitigated, the application of policies that protect areas or assets of particular importance do provide a strong reason for refusing the development. Paragraph 195 of the NPPF also clarifies that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site.

- 7.9.5. However, proceeding on the basis that this is resolvable if the proposal was acceptable in all other respects, it is considered that it is sensible to undertake an assessment on the basis of the habitats issue being addressed. In such circumstances, it would need to be considered whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole This assessment is carried out below.

Benefits

- 7.9.6. The primary benefit is that the proposal would provide year-round accommodation for people that are understood to have become reliant on the accommodation at the site, many of whom it is indicated would not have alternative accommodation immediately available to them. Formally allowing the accommodation to be used on a year-round basis and not as holiday accommodation would avoid a potential situation where

people could be made homeless if the site owners decide to comply with the conditions which should have been complied with previously.

- 7.9.7. The proposal would also provide a temporary boost to housing supply as, if the conditions are relaxed, the caravans could be considered temporary accommodation which can be counted towards a 5 year housing land supply. This would however represent a temporary boost which would be reversed in 2 years time and, as such, does not represent a substantive solution to the Council's inability to demonstrate a five year housing land supply.

Harm

- 7.9.8. In the same way that the abovementioned housing supply benefit would be temporary, the harms caused would be temporary.
- 7.9.9. For reasons set out above, the temporary proposal would conflict with the Settlement Strategy and represent an unsustainable form of development in a countryside location.
- 7.9.10. The relaxation of the conditions would effectively enable a temporary change of use that would be contrary to the development plan. The site is allocated as a holiday park and it is expected that the site should be used in such a way that generates economic activity throughout the local area. Whilst it is noted that the applicant's case is that the site does not function as a holiday park, the potential to achieve tourism activity through the use of the site would be temporarily lost.
- 7.9.11. A reason for the occupancy period being 10 months is to create a period of tranquillity. Albeit it would only be for a temporary period and it is understood that activity has been occurring in breach of the conditions (at this site and others) which would have undermined this objective, it is considered that formally allowing this activity to occur would cause harm to tranquillity and materially and unacceptably change the character of the area, for that temporary period.

Planning Balance (excluding the impact on protected habitats for the reason set out at 7.9.5)

- 7.9.12. Excluding the impact on protected habitats for the reason set out at 7.9.5 and applying the 'tilted balance' on the basis that the protected habitats issue can be easily resolved, it is still considered that the harm arising from the impact of the development and the associated conflict with paragraphs 88 and 187 of the NPPF would significantly and demonstrably outweigh the benefits of the proposal. The proposal is, therefore, contrary to the NPPF when taken as a whole. The proposal is also contrary to the development plan when it is taken as a whole for the reasons that are set out above. Having regard to other material planning considerations, including the housing needs of people that have been using the site, and weighing those factors against the harms that have been identified and the conflict with national policy and the development plan, it is considered that planning permission should be refused.

Planning Balance (including the impact on protected habitats for the reason set out at 7.9.5)

- 7.9.13. Including the impact on protected habitats for the reason set out at 7.9.5 makes the balancing exercise far simpler. The unmitigated impact on protected habitats would provide a strong reason for the refusal of the application and, therefore, the NPPF would indicate, even more strongly, that planning permission should be refused.

7.10. Conclusion

- 7.10.1. For the reasons given above, the development plan indicates that planning permission should be refused and other material considerations, including the NPPF, do not indicate that a different decision should be reached. Consequently, it is recommended that the application is refused on the grounds of the impact on tranquillity, the impact on tourism and the rural economy, the conflict with the development plan settlement strategy and due to the lack of a SAMMS contribution.

- 7.10.2. In considering the application, account has been taken of the information included with the application submission, the National Planning Policy Framework and the Development Plan, and all other material considerations including representations made including the views of statutory and non-statutory consultees and members of the public.

7.11. Recommendation

- 7.11.1. Refuse the application for the following reasons:

7.12. Reasons for refusal

1. The effect of the application would be to, temporarily, formalise the removal of accommodation from being available for use for tourism purposes and enable the site to be put to residential use. This is contrary to the purposes of the allocated holiday park and would cause harm to the local economy to which tourism is an important contributor. Moreover, the proposal would cause harm to the tranquillity and character of the locality. Furthermore, the proposal would be contrary to the Settlement Strategy for the Borough of Swale and the Isle of Sheppey Area Strategy by enabling a residential use to occur in a countryside location that is remote from the nearest settlements where a good range of services are available, that lacks the prospect of residents being able to integrate with the existing communities and is served by limited access to public transport to services, thereby resulting in a car dependent population. Having had regard to all other material considerations and having given consideration to whether any alternative

conditions would be able to make the development acceptable, the proposal is, considered, unacceptable and contrary to Policies ST1, ST3, ST6, CP1, CP2, DM3, DM4, DM5 and DM14 of Bearing Fruits 2031 - The Swale Borough Local Plan 2017; and the National Planning Policy Framework

2. The proposed development will create potential for recreational disturbance to the Swale Special Protection Area and fails to provide adequate mitigation against that potential harm. The development would therefore affect the integrity of this designated European site, and would be contrary to the aims of policies ST1, CP7, DM5 and DM28 of Bearing Fruits 2031 - The Swale Borough Local Plan 2017; and the National Planning Policy Framework



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3.3 REFERENCE NO -- 25/503387/FULL		
PROPOSAL – Section 73 - Application for Variation of condition 2, 3 and 4 (to allow year-round residential occupancy of caravans for a temporary period until 31 December 2027) pursuant to application SW/12/0113 for Variation of condition 2 of planning permission NK/8/60/99 to extend the occupancy period to 10 months between 1st March - 2nd January.		
SITE LOCATION -- Sunnymead Caravan Park Fourth Avenue Eastchurch ME12 4EW		
RECOMMENDATION -- Delegate to the Head of Planning to refuse planning permission.		
APPLICATION TYPE -- Full – Section 73.		
REASON FOR REFERRAL TO COMMITTEE -- The Head of Planning considers it to be in the public interest for the application to be determined by the Planning Committee.		
Case Officer – Demetri Prevatt		
WARD Sheppey East	PARISH/TOWN COUNCIL Eastchurch	APPLICANT Kent Holdco Ltd AGENT Laister Planning
DATE REGISTERED – 01/09/2025		TARGET DATE - 01/12/2025
BACKGROUND PAPERS AND INFORMATION: - 5061-350 -- Site Location Plan; - Covering Letter -- Prepared by Laister Planning Ltd. (08.08.2025); and - Planning Statement -- Prepared by Laister Planning Ltd. (08.08.2025). The full suite of documents submitted and representations received pursuant to the above application are available via the link below: https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=T0U1OOTYKL700		

1. SITE LOCATION AND DESCRIPTION

- 1.1. The Sunnymead Caravan Park is a 6.3ha holiday park comprised of a 2.8ha rectangle-shaped plot on the northeast side of Fourth Avenue, which is an access road running through the large collection of holiday parks located to the northeast of Eastchurch, and a 3.5ha 'L'-shaped plot on the southwest side. The site is adjacent to the Shurland Dale Holiday Park to the northwest and southwest, as well as Elmhurst Caravan Park to the northwest, The Wold Caravan Park to the northeast, and Copperfield and Hazel Cottages to the southeast. Sunnymead Caravan Park is comprised of approximately three-hundred and twenty-seven (327) caravan plots with associated amenities. It is

one of the eight (8) individual holiday parks that are controlled by the Applicant and combine to form the larger Kent Parks site.

- 1.2. Kent Parks is comprised of Brookside Leisure Park, Cliff Cottage Chalet Park, Eastchurch Holiday Camp, Elmhurst Caravan Park, Pleasant View Caravan Park, Shurland Dale Holiday Park (North Site - Formerly Bramley Park), Shurland Dale Holiday Park (South Site), and Sunnymead Caravan Park. These eight (8) parks are adjacent to each other and share both ancillary facilities and operation services. The ancillary amenities and facilities include a convenience store (currently closed), children's playgrounds, laundrette facilities, outdoor amenity spaces, office space for the management company, two (2) reception buildings, and two (2) clubhouses with their own arcade, bar, event space, restaurant, and swimming pool.
- 1.3. The Kent Parks site is located to the northeast of Eastchurch outside of the build-up area boundaries of the Tier 4 rural local service centre. It is accessible from the rest of the Isle of Sheppey via Warden Road, which leads to an internal road network comprised of First, Second, Third and Fourth Avenues. Some of the properties neighbouring the site are residential in nature, some are agricultural units or open countryside, with the northeast coastline being within walking distance to the north. The site's proximity to the coastline means that parts of the Kent Parks site is within the Coastal Change Management Area and Erosion Zone 2, but the designated area does not include this site.
- 1.4. The entire Kent Parks site is located within the impact risk zones of both the Sheppey Cliffs and Foreshore Sites of Special Scientific Interest (SSSI) and the Swale SSSI. Similarly, the site is within the 6.0km buffer zones of the Swale RAMSAR site and Special Protect Area (SPA), as well as the 6.0km buffer zone of the Outer Thames Estuary SPA.
- 1.5. In regard to other relevant planning constraints, the entire Kent Parks site is located within an area safeguarded for Brickearth. While it is also situated within Flood Zone 1, only parts of the site are considered to be at high risk of Surface Water flooding by the Environment Agency.
- 1.6. The list provided allow notes the planning constraints for the site:
 - Agricultural Land Classification: Grade 3
 - Built-Up Area Boundary: Outside
 - Flood Zone: 1
 - Grade II* Listed Building: Shurland Castle
 - Grade II Listed Buildings: Connetts, Fletcher Battery, and Trouts (Nearby)
 - Great Crested Newt: Green Zone
 - Holiday Park: Within
 - KMWLP - Safeguarded Area: Brickearth Swale Areas
 - Lower Medway Internal Drainage Board
 - National Character Area: Greater Thames Estuary
 - Rural Lane: Near to.

- The Medway Estuary and Marshes RAMSAR Site: Within Zone of Influence
- The Medway Estuary and Marshes SPA: Within Zone of Influence
- The Outer Thames Estuary SPA: Within 6.0km Buffer Zone
- The Sheppey Cliffs and Foreshore SSSI Risk Zone: Within
- The Swale RAMSAR Site: Within 6.0km Buffer Zone
- The Swale SPA: Within 6.0km Buffer Zone
- The Swale SSSI Risk Zone: Within

2. PLANNING HISTORY

- 2.1. SW/12/0113 -- Variation of condition 2 of planning permission NK/8/60/99 to extend the occupancy period to 10 months between 1st March – 2nd January.

Conditionally Granted on 02.04.2012.

- 2.2. SW/03/0989 -- Variation of Conditions of planning permission SW/94/588 to allow occupancy of chalets for 10 months between 1st March to 1st January.

Refused on 07.10.2003.

- 2.3. SW/91/0990 – Variation of condition of planning permissions SW/87/1668 AND SW/88/338 to allow occupancy of chalets between 8th March and 6th January.

Refused on 13.11.1991.

- 2.4. SW/91/0723 -- VARIATION OF CONDITION OF PLANNING PERMISSION SW/87/1668 AND SW/88/338 TO ALLOW OCCUPATION OF CHALETs BETWEEN 3 FEBRUARY TO 21 NOVEMBER AND 20 DECEMBER TO 4TH JANUARY.

Refused on 19.08.1991.

- 2.5. NK/8/60/99 -- Caravan site.

Conditionally Granted

Other Relevant Applications and Appeal Decisions.

- 2.6. Whilst it is essential that all cases are considered on their own merits, it is also appropriate for Local Planning Authorities to act consistently and have regard to the outcome of other appeals as material considerations, particularly where it might inform the manner in which policies are interpreted and applied. Other comparable applications and appeals relating to the use of holiday parks on a year-round basis received since January 2020 include the following:

- 2.7. Beverley Camp, Warden Road, Eastchurch.

Application 22/505778/FULL – Refused

Retrospective application for change of use from a holiday park (10 months occupancy) for the siting of 21no. residential retirement park homes for use all year round.

2.8. Shurland Dale Holiday Park, Warden Road, Eastchurch

20/505317/FULL – Refused

Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1525, to allow the caravan park to open/be occupied for 12 months per year as a holiday park.

20/505304/FULL – Refused

Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1042, to allow the caravan park to open/be occupied for 12 months per year as a holiday park.

2.9. Vanity Farm Camp, Leysdown Road, Leysdown

Application 22/505752/FULL – Refused

Section 73 - Application for variation of condition 2 (to allow use of the holiday park on a year-round basis) pursuant to SW/11/1608 for - Variation of condition (i) of planning permission NK/8/50/51 to allow occupation of the site for 10 months (1st March to 2nd January).

Appeal APP/V2255/W/24/3356382 – Dismissed

Application 21/505773/FULL - Approved

Section 73 - Application for a temporary variation of condition 2 (occupancy restriction) pursuant to application SW/11/1608, to allow occupancy of the chalet/caravans from the 02/01/2022 to 28/02/2022 (after which the park will revert back to a 10 month occupancy restriction).

Applications 20/505526/FULL, 20/503803/FULL and 20/502453/FULL approved a similar temporary permission at individual units 1, 85, 77 Vanity Farm Camp.

A similar temporary variation was approved at land adjoining Vanity Farm and now part of Harts Park under the terms of application 21/505699/FULL and a further application at Harts Park for a similar temporary change was approved under 21/505692/FULL.

2.10. Brookside Park, First Avenue, Eastchurch, Sheppey

Application 20/504175/FULL – Refused

Section 73 application to permit permanent year round residential use of caravans - removal of conditions 2 (occupancy restriction) and condition 3 (occupancy restriction) imposed on planning permission reference SW/11/1521

Appeal APP/V2255/W/21/3274740 – Dismissed.

2.11. Golden Leas Holiday Park, Bell Farm Lane, Minster on Sea

Application 20/503267/FULL – Refused

Section 73 application to vary condition 2 of planning permission ref SW/11/1588 to permit permanent year round residential use of 20no. caravans (age restricted to over 55s) as identified by drawing no. 4348-510 (The remainder of the site to continue in use for the stationing of caravans as holiday accommodation and for a maximum 10 month period each year).

Appeal APP/V2255/W/21/3279116 – Dismissed.

2.12. Estuary View Caravan Park, Bell Farm Lane, Minster on Sea

Application 20/503268/FULL – Refused

Section 73 - Application to permit permanent year round residential use of caravans - Removal of Conditions 2 (occupancy restriction), 3 (occupancy restriction) and 4 (compliance with schedule of requirements) imposed on planning permission reference SW/12/0195.

Appeal APP/V2255/W/21/3279125 - Dismissed

2.13. Ives Holiday Camp, Park Avenue, Leysdown

Application 20/502813/FULL – Refused.

Section 73 - Application to permit permanent year round residential use of caravans - removal of condition 2 (occupancy restriction), 3 (occupancy restriction) and 4 (occupancy restriction) imposed on planning permission 19/502752/FULL for retention of existing dwelling and change of use of land to a holiday caravan park.

2.14. Plough Leisure Caravan Park, Plough Road, Minster on Sea

Application 20/502811/FULL – Refused

Section 73 - Application to permit permanent year round residential use of caravans (age restricted to over 55s) for the land outlined in red on plan PL-LOC - removal of condition 2 (occupancy restriction), 3 (occupancy restriction) and 4 (occupancy restriction) imposed on planning permission SW/12/0024

Appeal APP/V2255/W/21/3277288 – Dismissed

20/505401/FULL – Approved

Section 73 - Application for a temporary variation of condition 2 (occupancy restriction) pursuant to application SW/12/0024, to allow occupancy of the caravans and chalets on the park during January and February 2021 (after which the park will revert back to a 10 month holiday occupancy restriction).

2.15. Hollybush Farm Caravan Park, Oak Lane, Minster-on-sea

22/500510/FULL – Approved

Section 73 - Application for temporary variation of condition 2 (occupancy restriction) pursuant to application SW/11/1587, to allow occupancy of the chalets/caravans from the 02/01/2022 to 28/02/2022 (after which the park will revert back to a 10-month occupancy restriction).

2.16. Sheerness Holiday Park, Halfway Road, Minster-on-sea

21/506564/FULL – Refused

Section 73 - application for Variation of condition 2 (occupancy restriction) of SW/12/0080 to allow the caravan park to open/be occupied for 12 months per year as a holiday park. (Resubmission of 20/505387/FULL).

As detailed in the description, similar application 20/505387/FULL was refused.

2.17. Central Beach Caravan Park, Grove Avenue, Leysdown

21/506563/FULL – Refused

Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1522, to allow the caravan park to open/be occupied for 12 months per year as a holiday park. (Resubmission of 20/505388/FULL).

2.18. Ashcroft Caravan Park, Plough Road, Eastchurch

21/506558/FULL – Refused

Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1044, to allow the caravan park to open/be occupied for 12 months per year as a holiday park. (Resubmission of 20/505316/FULL).

As detailed in the description, similar application 20/505316/FULL was refused.

2.19. Seafields Caravan Park, First Avenue, Eastchurch

21/506426/FULL – Approved

Section 73 - Application for variation of condition 2 (occupancy restriction) pursuant to application SW/11/1284, to allow the caravan park to open/occupied for additional 2 months in 2022 (January and February) on a temporary basis.

2.20. Copperfield Holiday Park, Fourth Avenue, Eastchurch

20/505905/FULL – Approved

Section 73 - Application for a temporary variation of condition 2 (occupancy restriction) pursuant to application SW/11/1432, to allow occupancy of the caravans and chalets on the park during January and February 2021 (after which the park will revert back to a 10 month holiday occupancy restriction).

3. PROPOSED DEVELOPMENT

- 3.1. The application, submitted under the terms of Section 73 of the Town and Country Planning Act, is seeking an amendment to the conditions imposed on Planning Permission ref. SW/12/0113 which granted permission for “Variation of condition 2 of

planning permission NK/8/60/99 to extend the occupancy period to 10 months between 1st March – 2nd January.”.

- 3.2. The amendment would temporarily enable year-round occupation of the caravans located within the holiday park for a period ending on 31.12.2027 and enable a relaxation of the nature of the occupation, through the re-wording of Conditions 2, 3 and 4.
- 3.3. Since the amendment would only affect the occupancy allowed by the extant Planning Permission and its conditions, no physical alterations or amended drawings are required. The only changes would be to the relevant existing conditions that are copied below.

Condition 2 -- Allowable Period of Occupation

No caravans shall be occupied except between 1st March and 2nd January in the following calendar year, and no caravan shall be occupied unless there is assigned agreement between the owners or operators of the Park and all caravan owners within the application site, stating that:

- a) The caravans are to be used for holiday and recreational use only and shall not be occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence; and
- b) No caravans shall be used as a postal address; and
- c) No caravan shall be used as a residence for registering, claiming or receipt of any state benefit; and
- d) No caravan shall be occupied in any manner, which shall or may cause the occupation thereof, to be or become a protected tenancy within the meaning of the Rent Acts 1968 and 1974; and
- e) If any caravan owner is in breach of the above clauses their agreement will be terminated and/or not renewed upon the next expiry of their current lease or licence.

On request, copies of the signed agreement[s] shall be provided to the Local Planning Authority.

Grounds: In order to prevent the caravans from being used as a permanent place of residence, an in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.

Condition 3 -- Signed Agreement

Any caravan that is not the subject of a signed agreement pursuant to Condition 2 shall not be occupied at any time.

Grounds: In order to prevent the caravans from being used as a permanent place of residence, an in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.

Condition 4 -- Operation Management

The owners or operators of the Park shall at all times operate the Park strictly in accordance with the terms of the Schedule appended to this decision notice.

Grounds: In order to prevent the caravans from being used as a permanent place of residence, an in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.

Schedule

The park operator must:

1. Ensure that all caravan users have a current signed agreement covering points (a) to (e) in condition 2 of the planning permission; and
2. Hold copies of documented evidence of the caravan users main residence and their identity; this may comprise of utility bills, Council Tax bill, passport, driving licence or similar document; and
3. On request, provide copies of the signed agreement[s] to the Local Planning Authority; and
4. Require caravan users to provide new documentation if they change their main residence; and
5. Send all written communications to the main residence of the caravan user; and
6. Not allow postal deliveries to the caravan or accept post on behalf of the caravan users at the park office; and
7. Ensure that each caravan is to be used for holiday use only and that no caravan is occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence, of the user or occupant; and
8. Adhere to a code of practice as good as or better than that published by the British Homes and Holiday Parks Association.

4. **REPRESENTATIONS**

- 4.1. A single round of consultation has been undertaken, during which letters were sent to neighbouring occupiers. A notice was displayed at the application site and the application was advertised in the local newspaper. Full details of representations are available online.
- 4.2. Eastchurch Parish Council strongly objected to the application on the following grounds:

Comments	Report reference
A formal site visit is requested.	Officers have visited the site.

Requested that the application be presented to the Planning Committee.	The recommendation is not contrary to the position of the Parish and so this is not the reason for the application being presented to the Planning Committee.
Provides a description of the history of occupancy restrictions.	Noted.
Conflict with Policies ST1, ST3, DM4, DM5, DM6 and DM21.	Regard has been had to the policies of the local plan throughout the below assessment.
Conflict with the NPPF including paragraphs 11, 84, 85, 119 152, 174 and 219.	Regard has been had to the NPPF throughout the below assessment.
Impact on tourism.	See Paragraphs 7.1.40 to 7.1.43
A precedent would be set for other holiday parks.	Any future application would be considered on its own merits.
A consistent approach should be taken, following earlier refusals.	The recent history of similar applications is set out above.

5. CONSULTATIONS

- 5.1. There has been one (1) round of consultation for consultees
- 5.2. **KCC Flood and Water Management** -- No Comments.
- 5.3. **KCC Ecological Advice Service (KCC EAS)** -- No objection on the condition that the Applicant provides a proportional financial contribution to the SAMMS.
- 5.4. **KCC Public Rights of Way (PROW)** -- No Comments.
- 5.5. **SBC Economy & Regeneration:** The Economy and Regeneration team are ordinarily supportive of all tourism related developments in the borough. However, the application to extend the occupation months at the holiday parks in question, would lead to a loss of income generated by visitors to the island in both high and low seasons. It will also reduce the variety of accommodation available for visitors to choose from as many of the caravans will default to being full time residential properties. There is limited accommodation of the same type, on offer elsewhere in the borough and it would therefore be beneficial to maintain the holiday stock available on the Isle of Sheppey.
- 5.6. **SBC Housing** -- The Housing team has engaged regularly with representatives from Kent Parks, who have provided information indicating that a number of occupants are residing in the holiday parks as their permanent homes. This is in breach of the existing planning consents, which they have acknowledged and have sought to work with the Council to resolve the issue. It remains unclear whether the accommodation on these sites meets the standards required under the Mobile Homes Act and therefore may not be suitable for permanent residential use.

In response to the ongoing issues, the Council's Homelessness Prevention Team has conducted on-site drop-in surgeries to offer advice and support to residents at risk of homelessness.

Historically, the annual closure of caravan parks across the Isle of Sheppey has led to a notable increase in demand for Housing Options services. In the previous year, 55 households approached the Housing Options team due to caravan park closures. Of these, 12 households were specifically from Kent Parks sites. So far this year, 23 households have approached the service. Of these, 11 households were specifically from Kent Parks sites. It is important to note that this year's figures are likely to rise as we approach the winter period, when park closures typically peak.

Should this level of presentation continue or increase, it would place significant pressure on the Housing Options service to deliver statutory duties, including the provision of advice, assessments, and sourcing suitable accommodation. This would also result in substantial financial implications for the Council, particularly in relation to the cost of temporary accommodation.

- 5.7. **Mid-Kent Environmental Protection** -- No comments.
- 5.8. **Environment Agency (EA)** -- No Comments.
- 5.9. **Natural England (NE)** -- Providing that the appropriate assessment concludes that the measures can be secured[with sufficient certainty] as planning conditions or obligations by your authority ,and providing that there are no other likely significant effects identified (on this or other protected sites) which require consideration by way of appropriate assessment, Natural England is likely to be satisfied that your appropriate assessments will be able to ascertain with sufficient certainty that there will be no adverse effect on the integrity of the European Site from recreational pressure in view of the site's conservation objectives. In this scenario, Natural England is unlikely to have further comment regarding the Appropriate Assessment, in relation to recreational disturbance.
- 5.10. **Lower Medway Internal Drainage Board (LMIDB)** -- No Comments.
- 5.11. **Southern Water** -- No objections.
- 5.12. **Kent Police** -- No Comments (Outside of Scope)
- 6. **DEVELOPMENT PLAN POLICIES**

Bearing Fruits 2031: The Swale Borough Council Local Plan 2017 (the Local Plan)

- ST1 Delivering sustainable development in Swale
- ST2 Development targets for jobs and homes 2014-2031
- ST3 The Swale settlement strategy
- ST4 Meeting the Local Plan development targets

ST6 The Isle of Sheppey area strategy
 CP1 Building a strong, competitive economy
 CP2 Promoting sustainable development
 CP3 Delivering a wide choice of high quality homes
 CP4 Requiring good design
 CP5 Health and wellbeing
 CP6 Community facilities and services to meet local needs
 CP8 Conserving and enhancing the historic environment
 DM3 The rural economy
 DM4 New holiday parks or extensions to existing parks
 DM5 The occupancy of holiday parks
 DM6 Managing transport demand and impact
 DM7 Vehicle parking
 DM14 General development criteria
 DM19 Sustainable design and construction
 DM21 Water, flooding and drainage
 DM26 Rural Lanes
 DM28 Biodiversity and geological conservation
 DM32 Development involving listed buildings

Supplementary Planning Guidance/Documents -

Landscape Character Assessment and Biodiversity Appraisal (LCA&BA), 2011.

Parking Standard Supplementary Planning Document, 2020.

Air Quality and Planning Technical Guidance, 2024.

Strategic Access Management and Monitoring Strategy (SAMMS), 2014

National Planning Policy Framework (the NPPF)

National Planning Practice Guidance (NPPG)

Kent Mineral and Waste Local Plan 2024-39 (KM&WLP), 2025 & the Kent Mineral Sites Plan (KMSP), 2020.

7. ASSESSMENT

The main considerations involved in the assessment of the application are:

- Principle
- Heritage
- Ecology
- Transport and Highways
- Air Quality
- Impact of Additional Activity on Living Conditions and Countryside Tranquillity
- Other Matters

7.1. Principle

- 7.1.1. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.

- 7.1.2. The NPPF provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.

Terms of Application

- 7.1.3. The application has sought the variation of conditions 2, 3 and 4 to enable their relaxation for a 2 year period. Depending on the approach that is taken, conditions could be imposed to either make the effect of any permission temporary or the conditions could be varied to set out the limitations that exist for two years and the conditions that would then be applicable thereafter.
- 7.1.4. In the event that the complete relaxation of conditions 2, 3 and 4 for a two year period is not found to be acceptable, consideration should be had to whether alternative conditions could be imposed to make a development acceptable. In this regard, it is noted that paragraph 4.3 of the applicant's Planning Statement sets out that they would be happy to discuss limitations relating to the number of caravans that are able to be occupied, the new and varied occupancy periods and leasing/licensing arrangements. An assessment will be made in relation to the entire relaxation of the conditions for a two year period and the potential to impose alternative conditions.

Development Plan – Settlement Strategy

- 7.1.5. Policy ST1 states that development proposals will accord with the Local Plan Settlement Strategy. The site is located outside the built-up area boundaries that exist within the Swale Borough.
- 7.1.6. The Settlement Strategy is set out at Policy ST3 and, as far as it is relevant to this application, it states that "At locations in the open countryside, outside the built-up area boundaries shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities."
- 7.1.7. The part of the exception that relates to the NPPF can be considered further below but, regardless of any conclusion that is reached in that respect, for reasons that will be set out below, the proposal would not enhance "the intrinsic value, *landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities*". Therefore, the proposal is contrary to the Settlement Strategy.

- 7.1.8. Policy CP2 states that *“new development will be located in accordance with Policy ST1 to Policy ST7....which minimise the need to travel for employment and services and facilitate sustainable transport.”* The site is located outside the settlement boundary and does not accord with Policy ST1 and ST3 as set out above. Whilst there is no new built development, the altered usage of the site would be new and, as such, the policy CP2 is considered to be applicable and conflicted with.
- 7.1.9. Policy CP4 states that development should *“make safe connections physically and visually both to and within developments, particularly through using landscape design and open space to retain and create green corridors for pedestrians, cyclists and biodiversity.”* Policy CP2 also states that development should *“achieve alternative access to all services through promoting access to sustainable forms of transport particularly bus, cycling and rail transport and improving interchange between them from the earliest stages of development.”*
- 7.1.10. Policy DM6 requires that *“developments demonstrate that opportunities for sustainable transport modes have been taken up.”* It also states that *“The location, design and layout of development proposals will demonstrate that priority is given to the needs of pedestrians and cyclists, including the disabled, through the provision of safe routes which minimise cyclist/pedestrian and traffic conflict within the site and which connect to local services and facilities [and that] access to public transport is integrated into site design and layout where appropriate.”*
- 7.1.11. Policy DM14 states that development will *“Achieve safe vehicular access, convenient routes and facilities for pedestrians and cyclists, enhanced public transport facilities and services.”*
- 7.1.12. The site is distant from the nearest bus stops and the site is remote from Eastchurch which is served by limited facilities for residents. From this basis, whilst there is a limited level of access to public transport, those connections are distant and provide a service of limited coverage. Whilst occupiers of the site might cycle, services would be limited and/or distant from the site and, therefore, are unlikely to be regularly cycled to. Therefore, it is considered inevitable that the majority of people at the site will be reliant on private modes of transport. This is true for lawful tourism users of the site and year-round occupiers of the site. However, it is considered that residents would have a different travel pattern and, as such, residential uses should be directed to sites better served by services and facilities capable of meeting their day-to-day needs. Whilst noting the difference between this temporary application and other applications being for the permanent relaxation of the conditions, this finding is consistent with other recent appeal decisions within the vicinity and it is considered that the conflict with the abovementioned policies would arise whether the use is permanent or temporary.

Development Plan – Holiday Parks

- 7.1.13. The site is allocated in the Local Plan Proposals Map as a Holiday Park. Policy DM4 addresses the provision of new holiday parks, the extension of holiday parks and the

provision of new or improved facilities within holiday parks. The content of that policy is not considered to be instructive for the assessment of this application. However, the pre-ambles to that policy provides some context for the consideration of applications related to holiday parks, stressing that a core principle of the NPPF is to proactively drive and support sustainable economic development. It goes on to state that *“Holiday parks provide direct employment and their users support shops, pubs, restaurants and visitor attractions. There can also be other social benefits in that they give work in areas where little alternative employment exists. The changing nature and flexibility of the leisure market and the higher aspirations of customers today are leading to leisure providers continually developing new concepts to respond to consumer needs and aspirations.”*

- 7.1.14. Local Plan Policy DM5 addresses the occupancy of holiday parks and reads as follows:

In order to ensure a sustainable pattern of development and to protect the character of the countryside, planning permission will not be granted for the permanent occupancy of caravans and chalets. Where it can be demonstrated that higher quality standards of holiday accommodation can be secured, planning permission will be granted for proposals to extend the occupancy of holiday parks between 1 March and 2 January the following year (a 10 month occupancy), provided that:

- 1. The site is not at risk of flooding, unless, exceptionally, applications accompanied by a Flood Risk Assessment (FRA) satisfactorily demonstrating that the proposal would result in no greater risk to life or property and where an appropriate flood evacuation plan would be put in place;*
- 2. The amenity and tranquillity of the countryside and residential areas are safeguarded;*
- 3. The proposals are in accordance with Policies DM 22 and DM 23 relating to the coast and the coastal change management area; and*
- 4. Where located adjacent or in close proximity to the Special Protection Areas (SPA), an assessment has been undertaken to determine the level of disturbance to over-wintering birds and identified mitigation measures, where appropriate.*
- 5. The extension of occupancy is subject to planning conditions safeguarding the holiday accommodation from being used as sole or main residences, as set out in Appendix 2.*

- 7.1.15. The pre-ambles to the policy highlights the history of most of the holiday parks, noting that 8 month (and eleven days at Christmas and New Year) occupancy restrictions existed in most cases. The supporting text indicates that *“the limited occupancy period was imposed to ensure that these holiday parks were not used as permanent (and sometimes sub-standard) housing (many of which would be in poorly accessible parts of the Borough) and to protect the character of the rural area. Limited occupation also afforded the opportunity to retain a period of tranquillity in rural and other areas. In areas at risk of flooding, permanent occupation over the winter period could also result in risk to life.”*

- 7.1.16. The supporting text highlighted that *“to give more scope and incentive to enable modernisation and upgrading to take place, the Council considers that there will be occasions when a 10 month occupancy period will be acceptable, which will, in turn, deliver tourism benefits and support for the local economy.”* It goes on to state that Policy DM5 sets out the parameters within which applications to extend occupancy of holiday parks to a 10 month period will be permitted before stating that *“Permanent occupation will continue to be resisted.”*

Condition 2 – Occupancy Period.

- 7.1.17. This application does not seek the permanent occupancy of the accommodation at the site as the year round occupancy is proposed for a temporary period of 2 years. From this basis, the effect of the application would not be directly contrary to the first sentence of Policy DM5 as it has been written.
- 7.1.18. However, the application would enable the extension of the occupancy period that is defined in the remainder of the first part of Policy DM5. The policy should be read in the context of the history of the holiday park sites and the earlier iterations of the development plan which imposed an 8 month (plus 11 days at Christmas and New Year in some cases) occupancy limitation. Paragraph 7.1.27 of the Local Plan states that *“to give more scope and incentive to enable modernisation and upgrading to take place, the Council considers that there will be occasions when a 10 month occupancy period will be acceptable.”* Whilst the Policy allowed for an increased occupancy period up to 10 months, subject to conditions, there is no indication that this would be able to be extended to 12 months in any circumstances, on a temporary or permanent basis.
- 7.1.19. From this basis, the proposed relaxation of the condition to enable year round occupation, albeit only for two years, would be contrary to the objectives of Policy DM5. Having regard to the potential to impose alternative conditions, any occupancy exceeding 10 months would be contrary to the aim of the policy. It is clear from the application submissions that the intention is to enable occupiers to be resident at the site on a year round basis and, therefore, any mid-ground occupancy period would be contrary to the intentions of the applicant.

Conditions 2, 3 and 4 – Main Residence Restriction and Record Keeping.

- 7.1.20. Turning to the criteria that are set out within Policy DM5, it is considered relevant that the assessment of these matters is only applicable in the context of the abovementioned occupancy limitation being complied with. Notwithstanding this, the criteria give a direction as to the key material considerations for this application. The matters addressed by criteria 1 to 4 of Policy DM5 are addressed in the relevant sections below.
- 7.1.21. For reasons that will be set out below, the variation of conditions in effect at the site would cause the use of the site to conflict with Criteria 2. There would be a technical conflict with Criteria 1 as the site is at very low risk of surface water flooding but, for

the reasons also set out below, it is considered that no objection should be raised to the application on the grounds of flood risk as no harm would arise. In relation to Criteria 4, there is grounds to object where no mitigation provisions are secured but it is expected that this would be able to be resolved. Again, this will be considered further below.

- 7.1.22. With respect to Criteria 3, the site is outside the coastal erosion zone and the Coastal Change Management area. Therefore, no objection is raised on those grounds.
- 7.1.23. In respect of Criteria 5, the planning conditions set out at Appendix 2 of the Local Plan are fundamentally the same as appear within existing conditions 2, 3 and 4 that currently apply to the permitted use at the site, as detailed above. The application seeks to vary these conditions. By varying these conditions, the development would no longer accord with Policy DM5 and the limitations that are fundamental to holiday parks to benefit from 10 month occupancy periods. Consequently, an application to use the site without complying with those conditions is in conflict with Policy DM5.
- 7.1.24. Amongst other relaxations, the primary effect of this would be to enable the accommodation at the site to be used as a persons primary residence. This is corroborated by the Applicant's Planning Statement which states that many of the existing occupants do not have an alternative permanent address and would be made homeless if the application site was made uninhabitable during the two-month closed season. This means that these caravans are the sole residence for these occupants and the relaxation of the subject conditions and year-round occupation of these sole residences would constitute their operation, for a two-year period, as dwellings rather than as tourist accommodation. This is entirely contrary to the designation of the site within a holiday park and the associated policies that are discussed above.

Temporary Effect of Variation

- 7.1.25. The application seeks the relaxation of conditions for a temporary period and, as such, the application is considered to be seeking what is tantamount to a temporary planning permission, which is enabled by Section 72 of the Act. Planning Practice Guidance states that *"Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period."*
- 7.1.26. The application is not being advanced as a 'trial run.' The case of the applicant is that planning circumstances might change at the end of the proposed two year period as they are seeking to advance proposals to develop the site. This is evidenced by virtue of a Screening Opinion (25/504264/ENVSCR) which has been sought for the development of this site, along with other land that is within the applicant's control and is referenced in the planning history section above. This has been referred to as a "meanwhile use" by the applicant which is described in the Planning Practice Guidance as a temporary use of vacant land or buildings prior to any longer term proposals coming forward. The site is not vacant and so this is not directly relevant. However,

whichever element of the PPG is drawn from, it is the case of the applicant that the proposal should be considered as a temporary situation until a permanent re-development of the site is brought forward.

- 7.1.27. At this stage, there can be no guarantee that the re-development of the site in the manner described would be granted planning permission. Whereas a ‘meanwhile use’ might be beneficial by bringing activity to a site that is vacant, that benefit would not arise here as, if not approved, the site would retain its lawful use and caravans would continue to be kept at the site. Conversely, putting the site to use outside the period that is defined by conditions would actively derive harm as a result of the impact on tranquillity that will be considered further below. From this basis, it is considered that negligible or very limited weight should be given to the suggestion that an alternative development might replace the existing or amended situation in the future and that no benefit would arise from the ‘meanwhile use’ of the site that is suggested by the applicant.

Number of Caravans Affected

- 7.1.28. The applicant’s submissions have addressed this application along with the other adjacent sites that are within their control. As such, site specific details are difficult to ascertain. However, it is indicated at paragraph 3.5 of the applicant’s submissions that there is a capacity of approximately 1197 units at the overall land holding and at least 200 of them have been occupied in breach of the abovementioned conditions. It is understood that the sites within the applicant’s control are not the only holiday parks where a breach of condition has taken place.
- 7.1.29. Should this and the other concurrent applications be allowed in the broadest of terms, all of the units would be able to be occupied throughout the prescribed period. This would far exceed any need to accommodate a number of the occupiers of the 200 or so caravans that have been indicated to have been occupied in breach of the restrictions previously. To allow the relaxation of the conditions for all of the caravans would not only address the existing breach that has occurred but potentially give rise to a far increased level of occupancy that would present greater issues at the end of the temporary period than would otherwise be the case. Unless precision was included in relation to the number of caravans occupied, the site could attract occupiers from other sites. That might be of benefit to enabling other sites to comply with their conditions, but it could increase the number of residents at the applicant’s holding who, in 2 years time, might have an even greater expectation of being allowed to stay at the site year-round.
- 7.1.30. It is noted within the applicant’s submissions that they would be willing to discuss conditions, including a condition that could restrict the number of caravans that can be occupied. Such a discussion has not occurred. However, if minded to approve, it would be necessary to discuss the number of caravans that can be occupied on this site and attempt to imbed that into a condition that meets the applicable tests. Such a condition could also attempt to secure a lower number in the second year to give the

Council comfort that the applicant is working towards reducing the number of persons that occupy the site in breach of the planning conditions.

- 7.1.31. However, enforcing such a condition would be riddled with difficulties, particularly on a caravan site where (notwithstanding the comments of the applicant that many of the caravans would not be able to be moved without being damaged) should be capable of being moved. Whereas a blanket restriction on occupation is enforceable, identifying which caravans are occupied and which are not, would be inherently difficult if not virtually impossible. For example, if a limit was reached, how would a person attempting to enforce that limit know which caravan should be enforced against. A plan would be required to specifically identify which caravans would be occupied but no such plan has been submitted and there is no current way available to be able to identify specific caravans.

Housing Supply

- 7.1.32. Swale Borough Council cannot demonstrate a five year housing land supply. Therefore, where a proposal relates to the provision of housing, the approach set out at paragraph 11d) of the NPPF is applicable.
- 7.1.33. Setting aside the conflict with the development plan, caravans in C3 use are able to count towards Housing Supply, and the use of the site as housing could count towards the supply of housing within the Borough. Depending on the approach taken to the number of caravans that the relaxation would apply to, this could be any number up to 1,197 units across the applicant's overall holding, of which 327 units are at this site. However, this 'supply' would only exist for 2 years and, as it would have to be discounted within the same assessment period, such temporary accommodation is not counted in the Council's 5 year housing land supply.
- 7.1.34. It is considered that a temporary housing supply boost can only be given limited weight as a planning benefit. It is not effectively addressing any housing shortfall as that shortfall would return in 2 years and it is not considered that caravan accommodation, which the applicant recognises is in poor condition, is a sustainable solution to addressing housing needs. It is recognised that a need is derived from the historic breaches of the conditions at the site and that the NPPF indicates that a sufficient amount and variety of land should come forward for housing, where it is needed and that the needs of groups with specific housing requirements are addressed.
- 7.1.35. The applicant identifies that the site and the wider land holding has been used to accommodate people on a year-round basis. This has been in breach of the abovementioned conditions and could be liable to enforcement action. This has created a situation where year-round occupiers are present and reliant on the accommodation. To refuse this application would result in it continuing to be the case that year round occupation would be in conflict with the abovementioned conditions and a breach of planning control, with harms that are identified elsewhere in this report. It is therefore considered that the future 'need' for housing that has been generated

by the past breaching of planning conditions at the site needs to be weighed against the harms and conflict with national and local planning policies.

- 7.1.36. The applicant has indicated that occupiers would be made to leave the site from January 2026. Some of those occupiers might have no alternative accommodation available and, as such, could present themselves to the Council as homeless. The needs of the local population should be a material consideration and will be considered. The duty on the Council to accommodate any persons that are caused to be homeless could create considerable difficulties for the Council and it is a key component of the applicant's case that allowing the application would avoid implications for other services of the Council, primarily the Council's Housing Team who would potentially see a sharp increase in demand, with the cost and labour implications.
- 7.1.37. In this regard, it is considered relevant that the Council is not hereby deciding whether or not to serve a Planning Enforcement Notice or a Breach of Condition Notice at the site. The decision of the applicant to comply with planning conditions if this application is refused, which should be a fundamental requirement, would be a decision for the applicant. The problem that may or is likely to exist around persons being homeless is a consequence of the unlawful occupation of the site that is understood to have been enabled by the applicant's predecessors. Accommodating people that might not have alternative accommodation can be viewed as a benefit of granting planning permission. However, this could also be achieved by not enforcing the conditions or by the chosen form of enforcement.
- 7.1.38. A factor that is considered to be important to this assessment is the quality of the accommodation at the site. The pre-amble to Policies DM4 and DM5 identify that some of the Borough's accommodation of this type is of poor quality and in need of improvement. Consistent with this, the applicant's own Planning Statement sets out that some of the accommodation at the site is of poor quality, with their submission stating that the caravans are old and liable to break if moved. In the absence of any form of detailed assessment of the quality of the accommodation, it is considered appropriate to give weight to a visual inspection of the site which suggests that much of the accommodation is not likely to accord to modern standards. Whilst it is expected that occupiers will value this accommodation and it is noted that reference has been made to the existence of a community spirit at the site and the holding in general, it is considered that the reliance on living accommodation that might not accord with modern standards should not be considered to be sustainable. In this regard and giving consideration to the potential to use a condition that limits the number of caravans, there is no evidence available to suggest whether those residents in the greatest need would have access to the best-kept caravans or those at the other end of the quality and maintenance range.
- 7.1.39. The proposal being a 'meanwhile use' is considered to weigh against the suggestion that the proposal would address a homelessness situation from occurring. It is acknowledged that the temporary availability of accommodation could provide a short-term solution to the existing hidden homelessness. However, it is integral to this that

the applicant intends to bring the current situation to an end and re-develop the site. This would not address the situation in the medium term and, whilst occupiers would have a 2 year opportunity to find alternative accommodation, they would equally have 2 years to become more imbedded at the site and, potentially, develop a hope or expectation that a further year round occupancy will be provided in the future. There can be no certainty that the future proposals at the site would (or would not) be available to the current occupiers at the site and therefore, even noting that the temporary permission would afford those residents additional time to find alternative accommodation, it is likely that they would have to leave the site in due course in any case. Whilst a relocation management plan to guide occupiers to suitable accommodation prior to the end of the temporary period might have been able to be explored and been the subject of a condition, it is considered that there could be little comfort or certainty that such a plan would be effective and, in the circumstances that have been detailed by the applicant, it is not clear how a phased reduction of occupiers at the site would be able to be achieved. The proposal would be as likely to postpone any problems rather than address them.

Tourism and Economic Development Considerations.

- 7.1.40. Policy CP1 of the Local Plan seeks to safeguard or enhance Swale's 'Principal Tourism Assets' and to consolidate or widen the tourism potential of the borough. Holiday parks are listed under the borough's 'Principal Tourism Assets' and the supporting text sets out that these should be protected from inappropriate development. Policy ST6 seeks to support the existing tourism offer on the Isle of Sheppey and the supporting text to this policy emphasises the importance of tourism to the economy of the Isle of Sheppey. Policy DM3 promotes rural tourism and makes clear that residential development should not be permitted at the expense of rural employment. The supporting text to policy DM4 states that holiday parks provide direct employment and support shops, pubs, restaurants and visitor attractions.
- 7.1.41. Whilst the comments of the applicant relating to the manner in which the site has not operated as a conventional holiday destination are noted, to formally change the use of the site (even for a temporary period) would compound the loss of holiday accommodation and reduce the tourism offer that exists and is of significance to the local economy. This would be contrary to the above policies that seek to safeguard and enhance tourism and to prevent the use of holiday parks as a person's main residence.
- 7.1.42. No detailed information has been provided to demonstrate why the accommodation is not suitable for holiday use and there is no evidence that demonstrates insurmountable difficulties to use the units as holiday accommodation. The residential use of the site would undermine the clear strategies in the adopted local plan to promote and increase the tourism offer in the borough and on the Isle of Sheppey, where tourism plays a vital role in the local economy. In this regard the change of use is contrary to policies CP1, ST6, DM3, DM4 and DM5 of the Local Plan.

- 7.1.43. It is considered that these policies are consistent with the NPPF as paragraph 88 of that document states that planning decisions should enable “...*the sustainable growth and expansion of all types of business in rural areas and sustainable rural tourism and leisure developments which respect the character of the countryside*”.

Other Conditions

- 7.1.44. As set out above, regard has to be had to the use of other conditions. In this case, it is considered that any period of occupancy beyond 10 months would conflict with policy DM5, albeit potentially to a lesser degree.
- 7.1.45. Similarly, whilst a limitation on the number of units able to be occupied would reduce the scale of conflict, any occupancy contrary to the current conditions would inherently be in conflict with the development plan.
- 7.1.46. There are other materials considerations to consider in relation to this case, which will be addressed below. However, it must be a crucial consideration that the variation of condition, as sought or any comparable version of that amendment, would cause the development at the site to be contrary to the development plan and, at least in part, the NPPF.

Other Matters Related to Principle

- 7.1.47. As set out above, it is noted that the occupancy restriction conditions are likely to have been breached at the site. However, no case has been made by the applicant that these breaches have occurred for a sufficient time for any breaches to have become lawful and no Certificate of Lawfulness has been applied for to this effect. Consequently, it is not known that there is a fallback position to afford any weight in the assessment of this application.
- 7.1.48. Summary in Relation to the Principle of the Variation of Conditions

For the reasons set out above, the relaxation of the conditions that currently exist would be contrary to the development plan. The harms arising from this will be considered below and weighed against the benefits of supporting the applications within a planning balance assessment.

7.2. Heritage

- 7.2.1. Any planning application for development which will affect a listed building or its setting must be assessed in accordance with the requirements of section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires a local planning authority to have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest which it possesses.

- 7.2.2. The NPPF states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan.
- 7.2.3. There are heritage assets within the general locality near to the site but these would not be directly impacted upon by the proposal, this includes the Grade II listed buildings at Connetts Farm, Trouts Farm and Palm Trees Holiday Park. Any impacts on the setting would be limited to that caused by additional activity in the area arising from the additional usage of the site. In this instance, and having had regard to the Council's obligations pursuant to the Planning (Listed Building and Conservation Areas Act) 1990, it is considered that the additional activity would not be harmful to the aural setting of those heritage assets and, therefore, there would be no conflict with Policy DM32 of the Local Plan or the heritage section of the NPPF. Due to the distance between the site and the Grade II* listed Shurland Hall and the arrangement of that site relative to the highways that would be affected by the additional use, the proposed increased activity is not considered to impact on the setting of that listed building.

7.3. **Ecology**

- 7.3.1. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by Policies CP7 and DM28 of the Local Plan, which relates to the protection of sites of international conservation importance including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar Sites.

Protected habitats

- 7.3.2. Section 40 of the Natural Environment and Rural Communities Act (2006) states "*For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England*" and "*A public authority which has any functions exercisable in relation to England must from time to time consider what action the authority can properly take, consistently with the proper exercise of its functions, to further the general biodiversity objective.*" Furthermore, the NPPF states that 'the planning system should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity.' The NPPF states that 'if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.'

- 7.3.3. In terms of the Local Plan, Policy DM28 sets out that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.
- 7.3.4. The site is in proximity to the Swale Special Protection Area (SPA) and Ramsar site and the Medway Estuary and Marshes SPA and Ramsar site and Outer Thames Estuary SPA. The sites are designated because they provide important habitats for wintering, migratory and breeding waders, seabirds, waterfowl and other birds (the qualifying features). Their conservation objectives are to maintain or restore their integrity by maintaining or restoring the extent, distribution, structure, function and supporting processes of the habitats of the qualifying features, the population of each of the qualifying features, and the distribution of the qualifying features within the site.
- 7.3.5. Increased visits and recreational use by occupiers within proximity to the habitats sites are likely to disturb the qualifying features. This can affect their ability to feed, rest, and nesting, constituting Likely Significant Effects upon them. Though the magnitude of Likely Significant Effects would be dependent upon occupancy rates, this proposal would result in greater occupation of the site for a temporary period, within a distance of habitats sites where it is identified there would likely be increased visits from occupiers, with Likely Significant Effects, upon the qualifying features. A strategic package of measures to mitigate the effects of recreational pressure and disturbance are set out in the Thames, Medway and Swale Strategic Access Management and Monitoring Strategy. This is based upon a costed tariff, to fund mitigation measures for each unit or scheme. To effectively mitigate the Likely Significant Effects, the contributions must be secured, and mitigation undertaken prior to occupation.
- 7.3.6. In response to this application Natural England have confirmed that the proposal would impact upon the integrity of the habitats sites and qualifying features, if un-mitigated. This is also supported by the KCC Ecologist. Any increase in the occupation period, even on a temporary basis would mean there would be some effects and, as such, proportionate mitigation needs to be secured.
- 7.3.7. As with any planning application, the request for financial contributions needs to be scrutinised in accordance with Regulation 122 of the Community Infrastructure Regulations 2010 (which were amended in 2014). These stipulate that an obligation can only be a reason for granting planning permission if it is necessary, related to the development and reasonably related in scale and kind. Whilst it is unusual to seek planning obligations from a temporary planning permission, for the reasons given above it is considered that it would meet all of the applicable tests to do so in this case. To make this proportionate, the amount of contribution would need to be reflective of the period of increased occupation and the two year duration of the temporarily increased population. Moreover, the conventional contribution needs to be reduced as it relates to two months of the relevant 'wintering' period. Based on the current SAMMs rate, this would amount to £2.73 per unit. For the reasons set out above, the overall sum could fluctuate if any permission granted relates to all of the caravans at the application site or a reduced number.

- 7.3.8. At the time of preparing this report, the necessary mitigation has not been secured and, as such, there is a conflict arising with the abovementioned legislation and policies. It is, however, expected that this would be resolvable and it is clear from communications received that the applicant would be willing to address this matter. The absence or securing of mitigation has a material effect on planning balance considerations and, as such, both scenarios will be considered fully below.

On-Site Protected Species

- 7.3.9. No physical works are required and there is no basis to assume that the proposed variation of the occupancy period and other applicable restrictions would have any impact on protected species at the site.

Biodiversity Net Gain (BNG)

- 7.3.10. This application was submitted after the commencement of Mandatory Biodiversity Net Gain. However, the applicable guidance is clear that this does not apply to section 73 permissions where the original permission which the section 73 relates to was either granted before 12 February 2024 or the application for the original permission was made before 12 February 2024. That is the case here and, as such, there is no BNG requirement arising from this application.

7.4. Transport and Highways

- 7.4.1. Local Plan Policies CP2 and DM6 promote sustainable transport through utilising good design principles. They set out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm. Policy DM7 of the Local Plan requires parking provision to be in accordance with the Council's Parking SPD. The site is also reliant on the use of a designated rural lane and, as such, policy DM26 is applicable.

- 7.4.2. The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. A core principle of the NPPF is that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.”

- 7.4.3. The proposal would not increase the amount of accommodation at the site and there would be no alterations to the access to the site. Whilst the duration of the use would extend and the amount of annual vehicle movements can be expected to increase as a result, there is no reason to conclude that the extended occupancy periods would be used at a greater intensity than the currently authorised periods. Noting that the traffic associated with the use can already occur for 10 months of the year and presumably be more intensive in the summer period, it is not considered that the

additional traffic arising from the 2 month winter period would have a severe impact on traffic that would conflict with the above extract of the NPPF. Moreover, there would be no requirement to provide additional parking. The variation of the condition would not, therefore, be in conflict with the abovementioned policies.

- 7.4.4. The effect of additional traffic on living conditions of nearby residents will be considered below.

7.5. **Air Quality**

- 7.5.1. The importance of improving air quality in areas of the borough has become increasingly apparent over recent years. Legislation has been introduced at a European level and a national level in the past decade with the aim of protecting human health and the environment by avoiding, reducing or preventing harmful concentrations of air pollution.

- 7.5.2. Policy DM6 of the Local Plan sets out that development proposals will integrate air quality management and environmental quality into the location and design of, and access to development and in so doing, demonstrate that proposals do not worsen air quality to an unacceptable degree.

- 7.5.3. The NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing new/existing development from contributing to or being put at unacceptable risk from, or being adversely affected by, inter alia, unacceptable levels of air pollution. It also requires the effects of air pollution and the potential sensitivity of the area to its effects to be taken into account in planning decisions.

- 7.5.4. The Planning Practice Guidance on Air Quality (Paragraph: 005 Reference ID: 32-005-20191101) states that:

“whether air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to have an adverse effect on air quality in areas where it is already known to be poor, particularly if it could affect the implementation of air quality strategies and action plans and/or breach legal obligations (including those relating to the conservation of habitats and species). Air quality may also be a material consideration if the proposed development would be particularly sensitive to poor air quality in its vicinity.

- 7.5.5. Given that the application is a major application (being on land that is more than a hectare), an Emissions Mitigation Assessment should have been submitted. In this instance, noting that the application relates to the variation of a condition to enable what is effectively 4 months of additional occupation (two months during each of two years), with no additional built development occurring, it is considered that any air quality impact would be limited. The site is not within or near an Air Quality Management Area and there is no reason to conclude that the proposal would have any more than a negligible impact on such an area through increased traffic occurring

within those 4 months. From this basis, whilst there is a technical conflict with the Council's Air Quality and Planning - Technical Guidance and, in turn, Policy DM6, it is considered that there would not be harm to air quality arising from this conflict that would represent a sound basis to object to the temporary effect of the development. In this respect it is noteworthy that the Council's Environmental Health Officer has not raised any objection on this ground to any of the group of similar applications that are currently pending determination.

7.6. Flood Risk, Drainage and Surface Water

- 7.6.1. Policy DM21 of the Local Plan and the NPPF requires that Local Planning Authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed. Moreover, Policy DM5 indicates that flood risk can be a material consideration in assessing proposals to extend the occupancy period of holiday parks.
- 7.6.2. The site is located within Flood Zone 1 in terms of fluvial and tidal flooding. In terms of surface water flooding, the Environment Agency Flood Risk map shows very minor elements of the site as being liable to surface water flooding. In this instance, noting the nature of the application, it is considered that the application passes the sequential test as it relates to the variation of an existing permission and therefore, by default, the application could only have been submitted in respect of the land at this site. Whilst no Flood Risk Assessment has been submitted, the small pockets of surface water flooding that are likely to occur would be of such negligible scale that it is not considered that the development would be unsafe if occupied through the additional months, even noting that rainfall and ground saturation is likely to be highest at this time. The absence of a flood risk assessment is a technical conflict with the abovementioned policies and the NPPF but, taking an approach that is similar to that taken by the Inspector in appeal APP/V2255/W/24/3350524 (Ham Road, Faversham), it is considered that there would be no real-world harm arising from the proposals and no increased risk of flooding on or off site as there would be no physical development proposed.

7.7. Impact of Additional Activity on Living Conditions and Countryside Tranquillity

Existing residents

- 7.7.1. Policy DM14 of the Local Plan and the NPPF requires that new development has sufficient regard for the living conditions of neighbouring occupiers. Of specific relevance to holiday parks and their occupancy period, Policy DM5 indicates that the amenity and tranquillity of residential areas is to be safeguarded. Tranquillity, to local residents and the countryside locality in general will be considered further below. However, in relation to other matters such as light, privacy, outlook and other such direct impact impacts, no additional impacts would be caused and so no objection is raised.

Site Occupiers

- 7.7.2. The accommodation at the site would not be altered by the proposed variation of condition. Regard is had to the current users of the site elsewhere in this report but, in terms of light, privacy, outlook, and other such direct impacts, it is not considered that there would be a worsening of conditions that would represent a ground to object to the application.

Countryside Tranquillity

- 7.7.3. In addition to the extract of Policy DM5 that is referenced above, the pre-amble to the policy advises that one of the purposes of the limitation on the occupancy period is to retain a period of tranquillity in rural and other areas. In the recent appeal with respect to a similar proposal at Vanity Farm Camp (APP/V2255/W/24/3356382), the Inspector found that the policy is consistent with National Planning Policy Framework objectives in respect of protecting local character, seeking to strike a balance with other competing policy objectives such as in respect of economic development and tourism. This approach is also consistent with Policy ST3 which identifies that within the open countryside, development will not be permitted unless it contributes to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities. The current restriction, in part, creates a period of tranquillity that accords with this policy aim.
- 7.7.4. Whether the extended occupancy period is afforded to all of the units at the site or a smaller number to reflect the number of residents that have previously occupied the site in breach of conditions, the extended occupancy period would undermine the period of tranquillity through additional activity. Traffic, congestion, noise and tranquillity all vary according to the season and the restriction on occupancy is intended to provide local residents with a quiet period to appreciate the rural surroundings. The occupation of the application site throughout the year would bring about activity, noise and traffic in winter months that would be harmful to rural character and would clearly conflict with Policy DM5 of the Local Plan.
- 7.7.5. It is considered relevant to note that this matter has previously been tested at one of the site's within the applicant's control, Brookside Park. At appeal APP/V2255/W/21/327474, the Inspector found that *"The conditions securing the closure of the appeal site during the winter months ensure that permanent residents locally are able to experience the tranquillity of the area when it is free from visitors. Their proposed removal would mean that the site would remain open during the currently closed winter months, harming this existing character by removing the respite and tranquillity during this period. In addition, if permanent residential use were allowed of the caravans, then this would make it likely that the character of the site would change when in occupation during the summer months."* That Inspector went on to identify longer term impacts which are not relevant to this application. The

Council has also previously reached a similar view with respect to an application at the nearby Beverley Camp and an Inspector reached a similar view in relation to the appeal at Vanity Farm Camp, which is within the applicant's wider holding. It is noted that the impact would be temporary and, therefore, different to that which was experienced in those cases. However, there would still be an impact for that period that is contrary to the aims of the development plan.

- 7.7.6. For this reason, the impact on the character of the area arising from the disturbance and the associated effect on tranquillity, would be contrary to policies ST1, ST3 and DM5 of the Local Plan and the NPPF.

7.8. Other matters

- 7.8.1. No additional built form or caravans are proposed as part of the proposed variation of condition and, as such, there would be no additional structures or items at the site. From this basis, there would not be any additional visual impact or any additional effects on open space demand or provision, trees, archaeology, erosion or contamination.
- 7.8.2. Given that the effect of the variation of the condition would be temporary, for a two year period, and only effectively have an effect for a total of 4 months across that time, it is not considered that it would be reasonable to secure any other planning obligations or community infrastructure provisions, other than that which is addressed elsewhere in this report which is required to directly mitigate an effect arising from the proposed variation of condition. For similar reasons, it is not considered that it would be reasonable to require the site to achieve renewable energy generation or energy/water efficiency improvements and, therefore, no objection is raised by Officers on the grounds that the proposed variation would not address the requirements of Policy DM19.
- 7.8.3. The applicant acknowledges and it is known that there have been periods where the conditions referred to above, potentially at this site as well as other holiday parks with comparable conditions, have been breached. This has continued to a point where it is known that some users of the holiday parks in this area have used them as the main residence. Within their Planning Statement, the applicant indicates that this could amount to 400 or more people occupying 200 or more caravans at the sites that are in their control. This application site is likely to account for a portion of that unauthorised occupation. Any under-enforcement that has occurred is not considered to be reason, in itself, to conclude that the conditions no longer serve a purpose or should be set aside for a temporary period. Enforcement is discretionary and, if any breaches are brought to the Council's attention, in accordance with the Planning Enforcement Strategy, the Council would have choices to make around whether to enforce and, if applicable, how to enforce. The conditions that exist are considered to meet the relevant tests of enforceability and reasonableness and, as such, these are not grounds to vary the conditions.

- 7.8.4. The applicant has indicated that options have been explored relating to limiting the breach by moving all year-round users of the wider holding into a single part of the site. However, this has been deemed to be impractical for several reasons.

Interim Policy Statement

- 7.8.5. The Full Council adopted an interim planning policy on park homes on 17 June 2020 as ‘a material consideration that will hold some weight in the consideration of applications for park home proposals’. However, the interim policy is considered to hold limited weight given that it was not progressed via the development plan process and has not been subject to scrutiny through consultation and examination. This approach has been supported at subsequent appeals including those at Plough Leisure Caravan Park, Brookfield Park, Golden Leas Holiday Park and Estuary View Caravan Park
- 7.8.6. The interim policy sets out a list of criteria for compliance. This includes the requirement that the site is in a sustainable location with access to services and facilities, and other criteria which, in some cases the proposals would comply with but in others, it has not been demonstrated that the proposal would comply, the accommodation meeting identified standards for example. It is set out elsewhere why these specific matters are a concern in relation to this application. Therefore, given the limited weight that should be attached to this interim policy, together with the conflict in any case with its criteria, it is still considered that the application is unacceptable.

Human Rights Act and Public Sector Equality Duty (Equality Act 2010)

- 7.8.7. The applicant states at several locations within their Planning Statement that some of the users of the site have health conditions and it is noted that some will consider the caravans to be their homes. In terms of personal circumstances of the site users, the applicant has not provided any specific details. No representations have been received detailing any specific considerations that the Council is required to have regard to. The Council has a duty to have due regard to the Public Sector Equality Duty as detailed within the Equality Act 2010 and the Human Rights Act 1998.
- 7.8.8. In line with the Human Rights Act 1998, it is unlawful for a public authority to act in a way which is incompatible with a Convention right, as per the European Convention on Human Rights. The human rights impacts that are most relevant to planning are Article 1 of the First Protocol (Protection of property), Article 8 (Right to respect for private and family life) and Article 14 (Prohibition of discrimination) of the Convention.
- 7.8.9. Where the peaceful enjoyment of someone’s home and/or their private life is adversely affected, their Article 8 and/or Article 1 of the First Protocol rights may be engaged. The loss of other forms of property (e.g. business premises) may engage rights under Article 1 of the First Protocol. These rights are both what are known as ‘qualified rights’, that is, they are not absolute rights but involve some form of balancing exercise

between the rights of the state to take various steps and the rights of the individual or other affected body/organisation.

- 7.8.10. In the case of Article 8 rights, the interference must be in accordance with law and be considered necessary in the interests of national security, public safety or the economic well-being of the country, for the prevention of crime/disorder, for the protection of health/morals or for the protection of the rights and freedoms of others
- 7.8.11. In the case of *RLT Built Environment Ltd v Cornwall Council* (a judicial review from 2016), the Court drew out a number of points concerning how to approach the loss of a home in the context of the planning process. The points set out by the Court were as follows:

I. Article 8 does not give a right to a home, or to a home in any particular place.

II. However, where someone has a home in a particular dwelling, it may interfere with the article 8 rights of him and/or his family to require him/them to move.

III. Whilst those rights demand “respect”, they are of course not guaranteed. In this context, as much as any other, the public interest and/or the rights and interests of others may justify interference with an individual's article 8 rights.

IV. Where article 8 rights are in play in a planning control context, they are a material consideration.

- 7.8.12. Any interference in such rights caused by the planning decision has to be balanced with and against all other material considerations, the issue of justification for interference with Article 8 rights effectively being dealt with by way of such a fair balance analysis.

That balancing exercise is one of planning judgment.

Article 8 rights are, of course, important: but it is not to be assumed that, in an area of social policy such as planning, they will often outweigh the importance of having coherent control over town and country planning, important not only in the public interest but also to protect the rights and freedoms of other individuals”.

- 7.8.13. In terms of Article 1 of the First Part, this provides as follows:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No-one shall be deprived of his possessions except in the public interest and subject to conditions provided for by law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

7.8.14. There are three key rules. The first is the principle of peaceful enjoyment of property. The second covers the deprivation of possessions and subjects it to certain conditions. The third recognises that that property can be controlled in the general interest.

7.8.15. Claims under any of the three rules need to be examined under four headings:

- I. Whether there was an interference with the peaceful enjoyment of “possessions”;*
- II. Whether the interference was “in the general interest”;*
- III. Whether the interference was “provided for by law”;*
- IV. Proportionality of the interference.*

7.8.16. In terms of assessing the proportionality of the interference, domestic case-law (Thomas v Bridgend County Borough Council in the Court of Appeal [2011], applying the European case of Bugajny), has summarised the approach as follows:

“The cases show that the issue of proportionality can be expanded into the following question:

“whether the interference with the applicants’ right to peaceful enjoyment of their possessions struck the requisite fair balance between the demands of the general interest of the public and the requirements of the protection of the individual’s fundamental rights, or whether it imposed a disproportionate and excessive burden on them.” (Bugajny [...] para 67).”

7.8.17. Article 14 of the Convention deals with the requirement for Convention freedoms to be available to all on a non-discriminatory basis. Article 14 is not a free-standing right in the same way as the other Articles that are mentioned above.

7.8.18. In line with the Public Sector Equality Duty (‘PSED’) the Council must have due regard to the need to eliminate discrimination and other forms of less favourable treatment such as harassment and victimisation, and to advance equality of opportunity and foster good relations as between persons who share a protected characteristic and persons who do not share it. The PSED is set out in section 149 of the Equality Act 2010. A protected characteristic for these purposes is age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. Advancing equality will amongst other measures remove or minimise disadvantages suffered by people due to their protected characteristic and take steps to meet the needs of people from protected groups where these are different from the needs of other people.

7.8.19. In planning terms, the potential impacts of a proposal on an individual or on groups of individuals should be addressed by the decision-maker as a material consideration. In balancing this against other material considerations, the decision-maker should also ensure that they give due weight to what is required by their statutory duties, including the requirements of the PSED.

- 7.8.20. If planning permission were refused, then occupation of the units at the site would be restricted to the existing 10 month period that is defined by the permission and in alignment with development plan policy. The occupiers would be required to vacate their units for most of January and all of February each year and would only be permitted to use the units for holiday/recreational use.
- 7.8.21. In terms of Article 8 rights (that is, the right to respect for the home and private life), the right is engaged by virtue of the continued inability to use the homes on the park for most of January and February in each of the two years. If the conditions are correctly followed, the occupiers will be required to find alternative accommodation. The question is whether the interference with the rights of affected individuals can be considered proportionate and necessary and so able to be justified under the second limb of Article 8. This involves weighing the interference against other material considerations in order to arrive at a fair balance between the interests of the individual and the interests of the community as a whole.
- 7.8.22. Development plan policy does not support year-round occupation of the Borough's holiday parks. Condition 2 of the effective planning permission aligns with this and the conditions that are in effect also require the caravans to be used for holiday and recreational use only, preventing the caravans being occupied as a sole or main residence. The occupants of the site would be required to move out of their park homes for at least two months of each year and would not be able to use the homes as a sole or main residence. Officers acknowledge that this could be disruptive or highly disruptive for those affected
- 7.8.23. Some groups are likely to be more sensitive than others to displacement. The proportion of the occupiers of the site that might consider themselves to fall within these groups has not been made clear but, based on the applicant's submissions, including but not limited to the incident record that has been provided at Appendix 5 of the Applicant's Statement, it is considered appropriate to proceed on the basis that this would affect some persons with protected characteristics.
- 7.8.24. Taking into account the nature of the impact on the existing occupiers, officers consider the benefits of resisting unplanned residential development in an unsustainable location and protecting the rural character of this part of Sheppey, which is in the public interest, would outweigh any interference with the rights of the individual under Article 8.
- 7.8.25. As regards Article 1 of the First Protocol rights in relation to residential occupiers, officers have proceeded for the purposes of assessing this application on the basis that this right is engaged by the temporary displacement from the caravans on the site each year and the restriction on occupation of the caravans as a sole or main residence. That interference can be regarded as being in the general interest, with the operation of the planning system being a legitimate interest of the state
- 7.8.26. Refusing a planning application has different implications to taking enforcement action. Whilst a refused planning application does not resolve a situation or provide comfort,

neither does it, in itself, cause or require the cessation of the unauthorised use. In this case the granting of planning permission would provide certainty for residents for a 2-year period, but it would not be until positive action to require the removal of residents takes place that the Council would be responsible for making persons homeless. There would be options open to the Council in relation to enforcement. It is considered that the proportionality of refusing a planning application as opposed to taking enforcement action has to be a consideration in this case, particularly in light of the limited period of respite that would be afforded to occupiers. In this respect, the implication of the Human Rights Act is considered to be different to an application relating to the permanent use of a site or a decision whether to take enforcement action.

- 7.8.27. In officers' assessment, taking account of the nature of the impact on residential occupiers, the proposed mitigation measures and the public benefits of the scheme, a fair balance is arrived at between the protection of the rights of affected individuals and the interests of the wider community and a disproportionate or excessive burden would not be imposed.

7.9. **Planning Balance – Benefits and Harm**

- 7.9.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.9.2. The amended restrictions would enable harm to tranquillity. The proposal would also be contrary to the authorised use and allocation of the site as a holiday park, thereby undermining its intended use as a driver of tourism and the associated economic activity that derives from tourism, which is important to the local economy. For these reasons and due to the site being located in the countryside, the proposal is contrary to the development plan Settlement Strategy. Therefore, the application conflicts with policies ST1, ST3, ST6, CP1, CP2, DM3, DM4 and DM5 of the Local Plan. Moreover, whilst it would be resolvable, the proposal fails to mitigate its impact on designated habitat sites, which conflicts with policy ST1, CP7, DM14 and DM28 of the Local Plan. Therefore, while no objection is raised on the basis of the application of other policies, the development plan as a whole indicates that planning permission should be refused.
- 7.9.3. The NPPF is a material consideration and as the Council are unable to demonstrate a 5-year supply of housing land, paragraph 11.d of the NPPF is engaged. This states the following:

“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.”

- 7.9.4. In this case, as per part (i) and as a result of the impact on designated habitats not being mitigated, the application of policies that protect areas or assets of particular importance do provide a strong reason for refusing the development. Paragraph 195 of the NPPF also clarifies that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site.
- 7.9.5. However, proceeding on the basis that this is resolvable if the proposal was acceptable in all other respects, it is considered that it is sensible to undertake an assessment on the basis of the habitats issue being addressed. In such circumstances, it would need to be considered whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole This assessment is carried out below.

Benefits

- 7.9.6. The primary benefit is that the proposal would provide year-round accommodation for people that are understood to have become reliant on the accommodation at the site, many of whom it is indicated would not have alternative accommodation immediately available to them. Formally allowing the accommodation to be used on a year-round basis and not as holiday accommodation would avoid a potential situation where people could be made homeless if the site owners decide to comply with the conditions which should have been complied with previously.
- 7.9.7. The proposal would also provide a temporary boost to housing supply as, if the conditions are relaxed, the caravans could be considered temporary accommodation which can be counted towards a 5 year housing land supply. This would however represent a temporary boost which would be reversed in 2 years time and, as such, does not represent a substantive solution to the Council's inability to demonstrate a five year housing land supply.

Harm

- 7.9.8. In the same way that the abovementioned housing supply benefit would be temporary, the harms caused would be temporary.

- 7.9.9. For reasons set out above, the temporary proposal would conflict with the Settlement Strategy and represent an unsustainable form of development in a countryside location.
- 7.9.10. The relaxation of the conditions would effectively enable a temporary change of use that would be contrary to the development plan. The site is allocated as a holiday park and it is expected that the site should be used in such a way that generates economic activity throughout the local area. Whilst it is noted that the applicant's case is that the site does not function as a holiday park, the potential to achieve tourism activity through the use of the site would be temporarily lost.
- 7.9.11. A reason for the occupancy period being 10 months is to create a period of tranquillity. Albeit it would only be for a temporary period and it is understood that activity has been occurring in breach of the conditions (at this site and others) which would have undermined this objective, it is considered that formally allowing this activity to occur would cause harm to tranquillity and materially and unacceptably change the character of the area, for that temporary period.

Planning Balance (excluding the impact on protected habitats for the reason set out at 7.9.5)

- 7.9.12. Excluding the impact on protected habitats for the reason set out at 7.9.5 and applying the 'tilted balance' on the basis that the protected habitats issue can be easily resolved, it is still considered that the harm arising from the impact of the development and the associated conflict with paragraphs 88 and 187 of the NPPF would significantly and demonstrably outweigh the benefits of the proposal. The proposal is, therefore, contrary to the NPPF when taken as a whole. The proposal is also contrary to the development plan when it is taken as a whole for the reasons that are set out above. Having regard to other material planning considerations, including the housing needs of people that have been using the site, and weighing those factors against the harms that have been identified and the conflict with national policy and the development plan, it is considered that planning permission should be refused.

Planning Balance (including the impact on protected habitats for the reason set out at 7.9.5)

- 7.9.13. Including the impact on protected habitats for the reason set out at 7.9.5 makes the balancing exercise far simpler. The unmitigated impact on protected habitats would provide a strong reason for the refusal of the application and, therefore, the NPPF would indicate, even more strongly, that planning permission should be refused.

7.10. Conclusion

- 7.10.1. For the reasons given above, the development plan indicates that planning permission should be refused and other material considerations, including the NPPF, do not indicate that a different decision should be reached. Consequently, it is recommended

that the application is refused on the grounds of the impact on tranquillity, the impact on tourism and the rural economy, the conflict with the development plan settlement strategy and due to the lack of a SAMMS contribution.

- 7.10.2. In considering the application, account has been taken of the information included with the application submission, the National Planning Policy Framework and the Development Plan, and all other material considerations including representations made including the views of statutory and non-statutory consultees and members of the public.

7.11. **Recommendation**

- 7.11.1. Refuse the application for the following reasons:

7.12. **Reasons for refusal**

1. The effect of the application would be to, temporarily, formalise the removal of accommodation from being available for use for tourism purposes and enable the site to be put to residential use. This is contrary to the purposes of the allocated holiday park and would cause harm to the local economy to which tourism is an important contributor. Moreover, the proposal would cause harm to the tranquillity and character of the locality. Furthermore, the proposal would be contrary to the Settlement Strategy for the Borough of Swale and the Isle of Sheppey Area Strategy by enabling a residential use to occur in a countryside location that is remote from the nearest settlements where a good range of services are available, that lacks the prospect of residents being able to integrate with the existing communities and is served by limited access to public transport to services, thereby resulting in a car dependent population. Having had regard to all other material considerations and having given consideration to whether any alternative conditions would be able to make the development acceptable, the proposal is, considered, unacceptable and contrary to Policies ST1, ST3, ST6, CP1, CP2, DM3, DM4, DM5 and DM14 of Bearing Fruits 2031 - The Swale Borough Local Plan 2017; and the National Planning Policy Framework
2. The proposed development will create potential for recreational disturbance to the Swale Special Protection Area and fails to provide adequate mitigation against that potential harm. The development would therefore affect the integrity of this designated European site, and would be contrary to the aims of policies ST1, CP7, DM5 and DM28 of Bearing Fruits 2031 - The Swale Borough Local Plan 2017; and the National Planning Policy Framework



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3.4 REFERENCE NO -- 25/503388/FULL		
PROPOSAL -- Section 73 - Application for variation of condition 2, 3 and 4 to allow year-round residential occupancy of caravans for a temporary period until 31 December 2027) pursuant to application SW/11/1381 for Variation of condition (I) of planning permission NK/8/50/81 allowing 10 months occupancy, namely 1st March to 2nd January, in accordance with Council's new executive policy change.		
SITE LOCATION -- Caravan Elmhurst Caravan Park Second Avenue Eastchurch ME12 4ER		
RECOMMENDATION -- Delegate to the Head of Planning to refuse planning permission.		
APPLICATION TYPE -- Full – Section 73.		
REASON FOR REFERRAL TO COMMITTEE -- The Head of Planning considers it to be in the public interest for the application to be determined by the Planning Committee.		
Case Officer – Demetri Prevatt		
WARD Sheppey East	PARISH/TOWN COUNCIL Eastchurch	APPLICANT Kent Holdco Ltd AGENT Laister Planning
DATE REGISTERED – 01/09/2025		TARGET DATE - 01/12/2025
BACKGROUND PAPERS AND INFORMATION: - 5061-354 -- Site Location Plan; - Covering Letter -- Prepared by Laister Planning Ltd. (08.08.2025); and - Planning Statement -- Prepared by Laister Planning Ltd. (08.08.2025). The full suite of documents submitted and representations received pursuant to the above application are available via the link below: https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=T0U1PFTYKL900		

1. SITE LOCATION AND DESCRIPTION

- 1.1. The Elmhurst Caravan Park is a 6.1ha irregular-shaped holiday park located on the northwest side of Second Avenue, which is an access road running through the large cluster of holiday parks located to the northeast of Eastchurch. The site is situated centrally within the cluster of holiday parks surrounded almost entirely by other holiday parks including Cliff Cottage Chalet Park, Hazeldene Chalet Park, Shurland Dale Holiday Park (North Site - Formerly Bramley Park), and The Wold Caravan Park. An exception to the predominant type of adjoining use is an agricultural unit located to the northwest of the site. Elmhurst Caravan Park is comprised of over one-hundred (100)

caravan plots and is one of the eight (8) individual holiday parks that are controlled by the Applicant and combine to form the larger Kent Parks site.

- 1.2. Kent Parks is comprised of Brookside Leisure Park, Cliff Cottage Chalet Park, Eastchurch Holiday Camp, Elmhurst Caravan Park, Pleasant View Caravan Park, Shurland Dale Holiday Park (North Site - Formerly Bramley Park), Shurland Dale Holiday Park (South Site), and Sunnymead Caravan Park. These eight (8) parks are adjacent to each other and share both ancillary facilities and operation services. The ancillary amenities and facilities include a convenience store (currently closed), children's playgrounds, laundrette facilities, outdoor amenity spaces, office space for the management company, two (2) reception buildings, and two (2) clubhouses with their own arcade, bar, event space, restaurant, and swimming pool.
- 1.3. The Kent Parks site is located to the northeast of Eastchurch outside of the build-up area boundaries of the Tier 4 rural local service centre. It is accessible from the rest of the Isle of Sheppey via Warden Road, which leads to an internal road network comprised of First, Second, Third and Fourth Avenues. Some of the properties neighbouring the site are residential in nature, some are agricultural units or open countryside, with the northeast coastline being within walking distance to the north. The site's proximity to the coastline means that parts of the Kent Parks site is within the Coastal Change Management Area and Erosion Zone 2.
- 1.4. The entire Kent Parks site is located within the impact risk zones of both the Sheppey Cliffs and Foreshore Sites of Special Scientific Interest (SSSI) and the Swale SSSI. Similarly, the site is within the 6.0km buffer zones of the Swale RAMSAR site and Special Protect Area (SPA), as well as the 6.0km buffer zone of the Outer Thames Estuary SPA.
- 1.5. In regard to other relevant planning constraints, the entire Kent Parks site is located within an area safeguarded for Brickearth. While it is also situated within Flood Zone 1, only parts of the site are considered to be at high risk of Surface Water flooding by the Environment Agency.
- 1.6. The list provided allow notes the planning constraints for the site:
 - Agricultural Land Classification: Grade 3
 - Built-Up Area Boundary: Outside
 - Coastal Change Management Area: Within
 - England Coast Path: Isle of Sheppey
 - Flood Zone: 1
 - Grade II* Listed Building: Shurland Castle
 - Grade II Listed Buildings: Connetts, Fletcher Battery, and Trouts (Nearby)
 - Great Crested Newt: Green Zone
 - Holiday Park: Within
 - KMWLP - Safeguarded Area: Brickearth Swale Areas
 - Lower Medway Internal Drainage Board
 - National Character Area: Greater Thames Estuary

- Rural Lane: Near to.
- The Medway Estuary and Marshes RAMSAR Site: Within Zone of Influence
- The Medway Estuary and Marshes SPA: Within Zone of Influence
- The Outer Thames Estuary SPA: Within 6.0km Buffer Zone
- The Sheppey Cliffs and Foreshore SSSI Risk Zone: Within
- The Swale RAMSAR Site: Within 6.0km Buffer Zone
- The Swale SPA: Within 6.0km Buffer Zone
- The Swale SSSI Risk Zone: Within

2. PLANNING HISTORY

- 2.1. SW/11/1381 -- Variation of condition (l) of planning permission NK/8/50/81 allowing 10 months occupancy, namely 1st March to 2nd January, in accordance with Council's new executive policy change.

Conditionally Granted on 19.12.2011.

- 2.2. SW/10/1219 -- Variation of condition (i) of Planning Permission NK/8/50/81 allowing occupancy of site for 11 days over Christmas and new year namely 23rd December to 2nd of January yearly

Conditionally Granted on 05.11.2010.

- 2.3. SW/09/0007 -- To permit a longer opening period for the existing recreational/ holiday caravan park.

Refused on 13.03.2009.

- 2.4. SW/05/1055 -- Variation of condition (i) of planning permission NK/8/50/81 to allow occupancy of site from 1st March to 1st January.

Refused on 01.11.2005.

- 2.5. NK/8/50/81 -- Use of land as a site for caravans and seasonal chalets and erection of lavatory block.

Conditionally Granted

Other Relevant Applications and Appeal Decisions.

- 2.6. Whilst it is essential that all cases are considered on their own merits, it is also appropriate for Local Planning Authorities to act consistently and have regard to the outcome of other appeals as material considerations, particularly where it might inform the manner in which policies are interpreted and applied. Other comparable applications and appeals relating to the use of holiday parks on a year-round basis received since January 2020 include the following:

2.7. Beverley Camp, Warden Road, Eastchurch.

Application 22/505778/FULL – Refused

Retrospective application for change of use from a holiday park (10 months occupancy) for the siting of 21no. residential retirement park homes for use all year round.

2.8. Shurland Dale Holiday Park, Warden Road, Eastchurch

20/505317/FULL – Refused

Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1525, to allow the caravan park to open/be occupied for 12 months per year as a holiday park.

20/505304/FULL – Refused

Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1042, to allow the caravan park to open/be occupied for 12 months per year as a holiday park.

2.9. Vanity Farm Camp, Leysdown Road, Leysdown

Application 22/505752/FULL – Refused

Section 73 - Application for variation of condition 2 (to allow use of the holiday park on a year-round basis) pursuant to SW/11/1608 for - Variation of condition (i) of planning permission NK/8/50/51 to allow occupation of the site for 10 months (1st March to 2nd January).

Appeal APP/V2255/W/24/3356382 – Dismissed

Application 21/505773/FULL - Approved

Section 73 - Application for a temporary variation of condition 2 (occupancy restriction) pursuant to application SW/11/1608, to allow occupancy of the chalet/caravans from the 02/01/2022 to 28/02/2022 (after which the park will revert back to a 10 month occupancy restriction).

Applications 20/505526/FULL, 20/503803/FULL and 20/502453/FULL approved a similar temporary permission at individual units 1, 85, 77 Vanity Farm Camp.

A similar temporary variation was approved at land adjoining Vanity Farm and now part of Harts Park under the terms of application 21/505699/FULL and a further application at Harts Park for a similar temporary change was approved under 21/505692/FULL.

2.10. Brookside Park, First Avenue, Eastchurch, Sheppey

Application 20/504175/FULL – Refused

Section 73 application to permit permanent year round residential use of caravans - removal of conditions 2 (occupancy restriction) and condition 3 (occupancy restriction) imposed on planning permission reference SW/11/1521

Appeal APP/V2255/W/21/3274740 – Dismissed.

2.11. Golden Leas Holiday Park, Bell Farm Lane, Minster on Sea

Application 20/503267/FULL – Refused

Section 73 application to vary condition 2 of planning permission ref SW/11/1588 to permit permanent year round residential use of 20no. caravans (age restricted to over 55s) as identified by drawing no. 4348-510 (The remainder of the site to continue in use for the stationing of caravans as holiday accommodation and for a maximum 10 month period each year).

Appeal APP/V2255/W/21/3279116 – Dismissed.

2.12. Estuary View Caravan Park, Bell Farm Lane, Minster on Sea

Application 20/503268/FULL – Refused

Section 73 - Application to permit permanent year round residential use of caravans - Removal of Conditions 2 (occupancy restriction), 3 (occupancy restriction) and 4 (compliance with schedule of requirements) imposed on planning permission reference SW/12/0195.

Appeal APP/V2255/W/21/3279125 - Dismissed

2.13. Ives Holiday Camp, Park Avenue, Leysdown

Application 20/502813/FULL – Refused.

Section 73 - Application to permit permanent year round residential use of caravans - removal of condition 2 (occupancy restriction), 3 (occupancy restriction) and 4 (occupancy restriction) imposed on planning permission 19/502752/FULL for retention of existing dwelling and change of use of land to a holiday caravan park.

2.14. Plough Leisure Caravan Park, Plough Road, Minster on Sea

Application 20/502811/FULL – Refused

Section 73 - Application to permit permanent year round residential use of caravans (age restricted to over 55s) for the land outlined in red on plan PL-LOC - removal of condition 2 (occupancy restriction), 3 (occupancy restriction) and 4 (occupancy restriction) imposed on planning permission SW/12/0024

Appeal APP/V2255/W/21/3277288 – Dismissed

20/505401/FULL – Approved

Section 73 - Application for a temporary variation of condition 2 (occupancy restriction) pursuant to application SW/12/0024, to allow occupancy of the caravans and chalets on the park during January and February 2021 (after which the park will revert back to a 10 month holiday occupancy restriction).

2.15. Hollybush Farm Caravan Park, Oak Lane, Minster-on-sea

22/500510/FULL – Approved

Section 73 - Application for temporary variation of condition 2 (occupancy restriction) pursuant to application SW/11/1587, to allow occupancy of the chalets/caravans from the 02/01/2022 to 28/02/2022 (after which the park will revert back to a 10-month occupancy restriction).

2.16. Sheerness Holiday Park, Halfway Road, Minster-on-sea

21/506564/FULL – Refused

Section 73 - application for Variation of condition 2 (occupancy restriction) of SW/12/0080 to allow the caravan park to open/be occupied for 12 months per year as a holiday park. (Resubmission of 20/505387/FULL).

As detailed in the description, similar application 20/505387/FULL was refused.

2.17. Central Beach Caravan Park, Grove Avenue, Leysdown

21/506563/FULL – Refused

Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1522, to allow the caravan park to open/be occupied for 12 months per year as a holiday park. (Resubmission of 20/505388/FULL).

2.18. Ashcroft Caravan Park, Plough Road, Eastchurch

21/506558/FULL – Refused

Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1044, to allow the caravan park to open/be occupied for 12 months per year as a holiday park. (Resubmission of 20/505316/FULL).

As detailed in the description, similar application 20/505316/FULL was refused.

2.19. Seafields Caravan Park, First Avenue, Eastchurch

21/506426/FULL – Approved

Section 73 - Application for variation of condition 2 (occupancy restriction) pursuant to application SW/11/1284, to allow the caravan park to open/occupied for additional 2 months in 2022 (January and February) on a temporary basis.

2.20. Copperfield Holiday Park, Fourth Avenue, Eastchurch

20/505905/FULL – Approved

Section 73 - Application for a temporary variation of condition 2 (occupancy restriction) pursuant to application SW/11/1432, to allow occupancy of the caravans and chalets on the park during January and February 2021 (after which the park will revert back to a 10 month holiday occupancy restriction).

3. PROPOSED DEVELOPMENT

- 3.1. The application, submitted under the terms of Section 73 of the Town and Country Planning Act, is seeking an amendment to the conditions imposed on Planning Permission ref. SW/11/1381 which granted permission for “Variation of condition (I) of planning permission NK/8/50/81 allowing 10 months occupancy, namely 1st March to 2nd January, in accordance with Council's new executive policy change.”
- 3.2. The amendment would temporarily enable year-round occupation of the caravans located within the holiday park for a period ending on 31.12.2027 and enable a relaxation of the nature of the occupation, through the re-wording of Conditions 2, 3 and 4.
- 3.3. Since the amendment would only affect the occupancy allowed by the extant Planning Permission and its conditions, no physical alterations or amended drawings are required. The only changes would be to the relevant existing conditions that are copied below.

Condition 2 -- Allowable Period of Occupation

No caravans shall be occupied except between 1st March and 2nd January in the following calendar year, and no caravan shall be occupied unless there is assigned agreement between the owners or operators of the Park and all caravan owners within the application site, stating that:

- a) The caravans are to be used for holiday and recreational use only and shall not be occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence; and
- b) No caravans shall be used as a postal address; and
- c) No caravan shall be used as a residence for registering, claiming or receipt of any state benefit; and
- d) No caravan shall be occupied in any manner, which shall or may cause the occupation thereof, to be or become a protected tenancy within the meaning of the Rent Acts 1968 and 1974; and
- e) If any caravan owner is in breach of the above clauses their agreement will be terminated and/or not renewed upon the next expiry of their current lease or licence.

On request, copies of the signed agreement[s] shall be provided to the Local Planning Authority.

Grounds: In order to prevent the caravans from being used as a permanent place of residence, an in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.

Condition 3 -- Signed Agreement

Any caravan that is not the subject of a signed agreement pursuant to Condition 2 shall not be occupied at any time.

Grounds: In order to prevent the caravans from being used as a permanent place of residence, an in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.

Condition 4 -- Operation Management

The owners or operators of the Park shall at all times operate the Park strictly in accordance with the terms of the Schedule appended to this decision notice.

Grounds: In order to prevent the caravans from being used as a permanent place of residence, an in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.

Schedule

The park operator must:

1. Ensure that all caravan users have a current signed agreement covering points (a) to (e) in condition 2 of the planning permission; and
2. Hold copies of documented evidence of the caravan users main residence and their identity; this may comprise of utility bills, Council Tax bill, passport, driving licence or similar document; and
3. On request, provide copies of the signed agreement[s] to the Local Planning Authority; and
4. Require caravan users to provide new documentation if they change their main residence; and
5. Send all written communications to the main residence of the caravan user; and
6. Not allow postal deliveries to the caravan or accept post on behalf of the caravan users at the park office; and
7. Ensure that each caravan is to be used for holiday use only and that no caravan is occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence, of the user or occupant; and
8. Adhere to a code of practice as good as or better than that published by the British Homes and Holiday Parks Association.

4. REPRESENTATIONS

- 4.1. A single round of consultation has been undertaken, during which letters were sent to neighbouring occupiers. A notice was displayed at the application site and the application was advertised in the local newspaper. Full details of representations are available online.

- 4.2. Eastchurch Parish Council strongly objected to the application on the following grounds:

Comments	Report reference
Conflict with Policies ST3, DM3, DM4, CP4 and DM14.	Regard has been had to the policies of the local plan throughout the below assessment.
Conflict with the NPPF including paragraphs 84, 107-110, 119-123 and 174.	Regard has been had to the NPPF throughout the below assessment.
Applications comparable to this have consistently been resisted at the site.	See Section 2 above.
Lack of infrastructure for permanent residents in relation to health, education, highways and emergency services.	See Paragraph 7.8.2
Harm to the character of the community in terms of landscape harm and tourism character.	See Paragraphs 7.1.40 to 7.1.43 and 7.8.1
A temporary permission would be likely to be extended which would undermine the local plan and set a precedent.	Such an application would have to be considered on its merits at that time.
A formal site visit is requested.	Officers have visited the site.
Requested that the application be presented to the Planning Committee.	The recommendation is not contrary to the position of the Parish and so this is not the reason for the application being presented to the Planning Committee.

5. CONSULTATIONS

- 5.1. There has been one (1) round of consultation for consultees
- 5.2. **KCC Flood and Water Management** -- No Comments.
- 5.3. **KCC Ecological Advice Service (KCC EAS)** --
- 5.4. **KCC Public Rights of Way (PROW)** -- No Comments.
- 5.5. **SBC Economy & Regeneration:** The Economy and Regeneration team are ordinarily supportive of all tourism related developments in the borough. However, the application to extended the occupation months at the holiday parks in question, would lead to a loss of income generated by visitors to the island in both high and low seasons. It will also reduce the variety of accommodation available for visitors to choose from as many of the caravans will default to being full time residential properties. There is limited accommodation of the same type, on offer elsewhere in the borough and it would therefore be beneficial to maintain the holiday stock available on the Isle of Sheppey.

- 5.6. **SBC Housing** -- The Housing team has engaged regularly with representatives from Kent Parks, who have provided information indicating that a number of occupants are residing in the holiday parks as their permanent homes. This is in breach of the existing planning consents, which they have acknowledged and have sought to work with the Council to resolve the issue. It remains unclear whether the accommodation on these sites meets the standards required under the Mobile Homes Act, and therefore may not be suitable for permanent residential use.

In response to the ongoing issues, the Council's Homelessness Prevention Team has conducted on-site drop-in surgeries to offer advice and support to residents at risk of homelessness.

Historically, the annual closure of caravan parks across the Isle of Sheppey has led to a notable increase in demand for Housing Options services. In the previous year, 55 households approached the Housing Options team due to caravan park closures. Of these, 12 households were specifically from Kent Parks sites. So far this year, 23 households have approached the service. Of these, 11 households were specifically from Kent Parks sites. It is important to note that this year's figures are likely to rise as we approach the winter period, when park closures typically peak.

Should this level of presentation continue or increase, it would place significant pressure on the Housing Options service to deliver statutory duties, including the provision of advice, assessments, and sourcing suitable accommodation. This would also result in substantial financial implications for the Council, particularly in relation to the cost of temporary accommodation.

- 5.7. **Mid-Kent Environmental Protection** -- No comments.
- 5.8. **Environment Agency (EA)** -- No Comments.
- 5.9. **Natural England (NE)** -- Providing that the appropriate assessment concludes that the measures can be secured[with sufficient certainty] as planning conditions or obligations by your authority, and providing that there are no other likely significant effects identified (on this or other protected sites) which require consideration by way of appropriate assessment, Natural England is likely to be satisfied that your appropriate assessments will be able to ascertain with sufficient certainty that there will be no adverse effect on the integrity of the European Site from recreational pressure in view of the site's conservation objectives. In this scenario, Natural England is unlikely to have further comment regarding the Appropriate Assessment, in relation to recreational disturbance.
- 5.10. **Lower Medway Internal Drainage Board (LMIDB)** -- No Comments.
- 5.11. **Southern Water** -- No objections.
- 5.12. **Kent Police** -- No Comments (Outside of Scope)

6. DEVELOPMENT PLAN POLICIES

Bearing Fruits 2031: The Swale Borough Council Local Plan 2017 (the Local Plan)

ST1 Delivering sustainable development in Swale
 ST2 Development targets for jobs and homes 2014-2031
 ST3 The Swale settlement strategy
 ST4 Meeting the Local Plan development targets
 ST6 The Isle of Sheppey area strategy
 CP1 Building a strong, competitive economy
 CP2 Promoting sustainable development
 CP3 Delivering a wide choice of high quality homes
 CP4 Requiring good design
 CP5 Health and wellbeing
 CP6 Community facilities and services to meet local needs
 CP8 Conserving and enhancing the historic environment
 DM3 The rural economy
 DM4 New holiday parks or extensions to existing parks
 DM5 The occupancy of holiday parks
 DM6 Managing transport demand and impact
 DM7 Vehicle parking
 DM14 General development criteria
 DM19 Sustainable design and construction
 DM21 Water, flooding and drainage
 DM26 Rural Lanes
 DM28 Biodiversity and geological conservation
 DM32 Development involving listed buildings

Supplementary Planning Guidance/Documents -

Landscape Character Assessment and Biodiversity Appraisal (LCA&BA), 2011.
 Parking Standard Supplementary Planning Document, 2020.
 Air Quality and Planning Technical Guidance, 2024.
 Strategic Access Management and Monitoring Strategy (SAMMS), 2014

National Planning Policy Framework (the NPPF)

National Planning Practice Guidance (NPPG)

Kent Mineral and Waste Local Plan 2024-39 (KM&WLP), 2025 & the Kent Mineral Sites Plan (KMSP), 2020.

7. ASSESSMENT

The main considerations involved in the assessment of the application are:

- Principle
- Heritage
- Ecology
- Transport and Highways
- Air Quality

- Impact of Additional Activity on Living Conditions and Countryside Tranquillity
- Other Matters

7.1. Principle

- 7.1.1. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.
- 7.1.2. The NPPF provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.

Terms of Application

- 7.1.3. The application has sought the variation of conditions 2, 3 and 4 to enable their relaxation for a 2 year period. Depending on the approach that is taken, conditions could be imposed to either make the effect of any permission temporary or the conditions could be varied to set out the limitations that exist for two years and the conditions that would then be applicable thereafter.
- 7.1.4. In the event that the complete relaxation of conditions 2, 3 and 4 for a two year period is not found to be acceptable, consideration should be had to whether alternative conditions could be imposed to make a development acceptable. In this regard, it is noted that paragraph 4.3 of the applicant's Planning Statement sets out that they would be happy to discuss limitations relating to the number of caravans that are able to be occupied, the new and varied occupancy periods and leasing/licensing arrangements. An assessment will be made in relation to the entire relaxation of the conditions for a two year period and the potential to impose alternative conditions.

Development Plan – Settlement Strategy

- 7.1.5. Policy ST1 states that development proposals will accord with the Local Plan Settlement Strategy. The site is located outside the built-up area boundaries that exist within the Swale Borough.
- 7.1.6. The Settlement Strategy is set out at Policy ST3 and, as far as it is relevant to this application, it states that "At locations in the open countryside, outside the built-up area boundaries shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value,

landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.”

- 7.1.7. The part of the exception that relates to the NPPF can be considered further below but, regardless of any conclusion that is reached in that respect, for reasons that will be set out below, the proposal would not enhance “the intrinsic value, *landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities*”. Therefore, the proposal is contrary to the Settlement Strategy.
- 7.1.8. Policy CP2 states that “*new development will be located in accordance with Policy ST1 to Policy ST7....which minimise the need to travel for employment and services and facilitate sustainable transport.*” The site is located outside the settlement boundary and does not accord with Policy ST1 and ST3 as set out above. Whilst there is no new built development, the altered usage of the site would be new and, as such, the policy CP2 is considered to be applicable and conflicted with.
- 7.1.9. Policy CP4 states that development should “*make safe connections physically and visually both to and within developments, particularly through using landscape design and open space to retain and create green corridors for pedestrians, cyclists and biodiversity.*” Policy CP2 also states that development should “*achieve alternative access to all services through promoting access to sustainable forms of transport particularly bus, cycling and rail transport and improving interchange between them from the earliest stages of development.*”
- 7.1.10. Policy DM6 requires that “developments demonstrate that opportunities for sustainable transport modes have been taken up.” It also states that “*The location, design and layout of development proposals will demonstrate that priority is given to the needs of pedestrians and cyclists, including the disabled, through the provision of safe routes which minimise cyclist/pedestrian and traffic conflict within the site and which connect to local services and facilities [and that] access to public transport is integrated into site design and layout where appropriate.*”
- 7.1.11. Policy DM14 states that development will “*Achieve safe vehicular access, convenient routes and facilities for pedestrians and cyclists, enhanced public transport facilities and services.*”
- 7.1.12. The site is distant from the nearest bus stops and the site is remote from Eastchurch which is served by limited facilities for residents. From this basis, whilst there is a limited level of access to public transport, those connections are distant and provide a service of limited coverage. Whilst occupiers of the site might cycle, services would be limited and/or distant from the site and, therefore, are unlikely to be regularly cycled to. Therefore, it is considered inevitable that the majority of people at the site will be reliant on private modes of transport. This is true for lawful tourism users of the site and year-round occupiers of the site. However, it is considered that residents would have a different travel pattern and, as such, residential uses should be directed to sites better served by services and facilities capable of meeting their day-to-day needs.

Whilst noting the difference between this temporary application and other applications being for the permanent relaxation of the conditions, this finding is consistent with other recent appeal decisions within the vicinity and it is considered that the conflict with the abovementioned policies would arise whether the use is permanent or temporary.

Development Plan – Holiday Parks

7.1.13. The site is allocated in the Local Plan Proposals Map as a Holiday Park. Policy DM4 addresses the provision of new holiday parks, the extension of holiday parks and the provision of new or improved facilities within holiday parks. The content of that policy is not considered to be instructive for the assessment of this application. However, the pre-ambles to that policy provides some context for the consideration of applications related to holiday parks, stressing that a core principle of the NPPF is to proactively drive and support sustainable economic development. It goes on to state that *“Holiday parks provide direct employment and their users support shops, pubs, restaurants and visitor attractions. There can also be other social benefits in that they give work in areas where little alternative employment exists. The changing nature and flexibility of the leisure market and the higher aspirations of customers today are leading to leisure providers continually developing new concepts to respond to consumer needs and aspirations.”*

7.1.14. Local Plan Policy DM5 addresses the occupancy of holiday parks and reads as follows:

In order to ensure a sustainable pattern of development and to protect the character of the countryside, planning permission will not be granted for the permanent occupancy of caravans and chalets. Where it can be demonstrated that higher quality standards of holiday accommodation can be secured, planning permission will be granted for proposals to extend the occupancy of holiday parks between 1 March and 2 January the following year (a 10 month occupancy), provided that:

- 1. The site is not at risk of flooding, unless, exceptionally, applications accompanied by a Flood Risk Assessment (FRA) satisfactorily demonstrating that the proposal would result in no greater risk to life or property and where an appropriate flood evacuation plan would be put in place;*
- 2. The amenity and tranquillity of the countryside and residential areas are safeguarded;*
- 3. The proposals are in accordance with Policies DM 22 and DM 23 relating to the coast and the coastal change management area; and*
- 4. Where located adjacent or in close proximity to the Special Protection Areas (SPA), an assessment has been undertaken to determine the level of disturbance to over-wintering birds and identified mitigation measures, where appropriate.*
- 5. The extension of occupancy is subject to planning conditions safeguarding the holiday accommodation from being used as sole or main residences, as set out in Appendix 2.*

7.1.15. The pre-ambles to the policy highlights the history of most of the holiday parks, noting that 8 month (and eleven days at Christmas and New Year) occupancy restrictions

existed in most cases. The supporting text indicates that *“the limited occupancy period was imposed to ensure that these holiday parks were not used as permanent (and sometimes sub-standard) housing (many of which would be in poorly accessible parts of the Borough) and to protect the character of the rural area. Limited occupation also afforded the opportunity to retain a period of tranquillity in rural and other areas. In areas at risk of flooding, permanent occupation over the winter period could also result in risk to life.”*

- 7.1.16. The supporting text highlighted that *“to give more scope and incentive to enable modernisation and upgrading to take place, the Council considers that there will be occasions when a 10 month occupancy period will be acceptable, which will, in turn, deliver tourism benefits and support for the local economy.”* It goes on to state that Policy DM5 sets out the parameters within which applications to extend occupancy of holiday parks to a 10 month period will be permitted before stating that *“Permanent occupation will continue to be resisted.”*

Condition 2 – Occupancy Period.

- 7.1.17. This application does not seek the permanent occupancy of the accommodation at the site as the year round occupancy is proposed for a temporary period of 2 years. From this basis, the effect of the application would not be directly contrary to the first sentence of Policy DM5 as it has been written.
- 7.1.18. However, the application would enable the extension of the occupancy period that is defined in the remainder of the first part of Policy DM5. The policy should be read in the context of the history of the holiday park sites and the earlier iterations of the development plan which imposed an 8 month (plus 11 days at Christmas and New Year in some cases) occupancy limitation. Paragraph 7.1.27 of the Local Plan states that *“to give more scope and incentive to enable modernisation and upgrading to take place, the Council considers that there will be occasions when a 10 month occupancy period will be acceptable.”* Whilst the Policy allowed for an increased occupancy period up to 10 months, subject to conditions, there is no indication that this would be able to be extended to 12 months in any circumstances, on a temporary or permanent basis.
- 7.1.19. From this basis, the proposed relaxation of the condition to enable year round occupation, albeit only for two years, would be contrary to the objectives of Policy DM5. Having regard to the potential to impose alternative conditions, any occupancy exceeding 10 months would be contrary to the aim of the policy. It is clear from the application submissions that the intention is to enable occupiers to be resident at the site on a year round basis and, therefore, any mid-ground occupancy period would be contrary to the intentions of the applicant.

Conditions 2, 3 and 4 – Main Residence Restriction and Record Keeping.

- 7.1.20. Turning to the criteria that are set out within Policy DM5, it is considered relevant that the assessment of these matters is only applicable in the context of the abovementioned occupancy limitation being complied with. Notwithstanding this, the criteria give a direction as to the key material considerations for this application. The matters addressed by criteria 1 to 4 of Policy DM5 are addressed in the relevant sections below.
- 7.1.21. For reasons that will be set out below, the variation of conditions in effect at the site would cause the use of the site to conflict with Criteria 2. There would be a technical conflict with Criteria 1 as the site is at very low risk of surface water flooding but, for the reasons also set out below, it is considered that no objection should be raised to the application on the grounds of flood risk as no harm would arise. In relation to Criteria 4, there is grounds to object where no mitigation provisions are secured but it is expected that this would be able to be resolved. Again, this will be considered further below.
- 7.1.22. With respect to Criteria 3, the northernmost corners of the site are located within Coastal Erosion Zone 2 and the Coastal Change Management Area. It appears that this would amount to the land on which three caravans are shown on the submitted location plan. There is a breach of policy DM33 as it has not been demonstrated that the accommodation would be safe and it is expected that there would be an elevated risk of coastal erosion in the period. However, the effected caravans are distant from the current coast lint and, in any case this would be an instance where the potential harm could be overcome through the imposition of a condition stating that the effected caravans cannot be occupied. From this basis, no objection is raised to the proposal on this ground.
- 7.1.23. In respect of Criteria 5, the planning conditions set out at Appendix 2 of the Local Plan are fundamentally the same as appear within existing conditions 2, 3 and 4 that currently apply to the permitted use at the site, as detailed above. The application seeks to vary these conditions. By varying these conditions, the development would no longer accord with Policy DM5 and the limitations that are fundamental to holiday parks to benefit from 10 month occupancy periods. Consequently, an application to use the site without complying with those conditions is in conflict with Policy DM5.
- 7.1.24. Amongst other relaxations, the primary effect of this would be to enable the accommodation at the site to be used as a persons primary residence. This is corroborated by the Applicant's Planning Statement which states that many of the existing occupants do not have an alternative permanent address and would be made homeless if the application site was made uninhabitable during the two-month closed season. This means that these caravans are the sole residence for these occupants and the relaxation of the subject conditions and year-round occupation of these sole residences would constitute their operation, for a two-year period, as dwellings rather than as tourist accommodation. This is entirely contrary to the designation of the site within a holiday park and the associated policies that are discussed above.

Temporary Effect of Variation

- 7.1.25. The application seeks the relaxation of conditions for a temporary period and, as such, the application is considered to be seeking what is tantamount to a temporary planning permission, which is enabled by Section 72 of the Act. Planning Practice Guidance states that *“Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period.”*
- 7.1.26. The application is not being advanced as a ‘trial run.’ The case of the applicant is that planning circumstances might change at the end of the proposed two year period as they are seeking to advance proposals to develop the site. This is evidenced by virtue of a Screening Opinion (25/504264/ENVSCR) which has been sought for the development of this site, along with other land that is within the applicant’s control and is referenced in the planning history section above. This has been referred to as a “meanwhile use” by the applicant which is described in the Planning Practice Guidance as a temporary use of vacant land or buildings prior to any longer term proposals coming forward. The site is not vacant and so this is not directly relevant. However, whichever element of the PPG is drawn from, it is the case of the applicant that the proposal should be considered as a temporary situation until a permanent re-development of the site is brought forward.
- 7.1.27. At this stage, there can be no guarantee that the re-development of the site in the manner described would be granted planning permission. Whereas a ‘meanwhile use’ might be beneficial by bringing activity to a site that is vacant, that benefit would not arise here as, if not approved, the site would retain its lawful use and caravans would continue to be kept at the site. Conversely, putting the site to use outside the period that is defined by conditions would actively derive harm as a result of the impact on tranquillity that will be considered further below. From this basis, it is considered that negligible or very limited weight should be given to the suggestion that an alternative development might replace the existing or amended situation in the future and that no benefit would arise from the ‘meanwhile use’ of the site that is suggested by the applicant.

Number of Caravans Affected

- 7.1.28. The applicant’s submissions have addressed this application along with the other adjacent sites that are within their control. As such, site specific details are difficult to ascertain. However, it is indicated at paragraph 3.5 of the applicant’s submissions that there is a capacity of approximately 1197 units at the overall land holding and at least 200 of them have been occupied in breach of the abovementioned conditions. It is understood that the sites within the applicant’s control are not the only holiday parks where a breach of condition has taken place.
- 7.1.29. Should this and the other concurrent applications be allowed in the broadest of terms, all of the units would be able to be occupied throughout the prescribed period. This

would far exceed any need to accommodate a number of the occupiers of the 200 or so caravans that have been indicated to have been occupied in breach of the restrictions previously. To allow the relaxation of the conditions for all of the caravans would not only address the existing breach that has occurred but potentially give rise to a far increased level of occupancy that would present greater issues at the end of the temporary period than would otherwise be the case. Unless precision was included in relation to the number of caravans occupied, the site could attract occupiers from other sites. That might be of benefit to enabling other sites to comply with their conditions, but it could increase the number of residents at the applicant's holding who, in 2 years time, might have an even greater expectation of being allowed to stay at the site year-round.

- 7.1.30. It is noted within the applicant's submissions that they would be willing to discuss conditions, including a condition that could restrict the number of caravans that can be occupied. Such a discussion has not occurred. However, if minded to approve, it would be necessary to discuss the number of caravans that can be occupied on this site and attempt to imbed that into a condition that meets the applicable tests. Such a condition could also attempt to secure a lower number in the second year to give the Council comfort that the applicant is working towards reducing the number of persons that occupy the site in breach of the planning conditions.
- 7.1.31. However, enforcing such a condition would be riddled with difficulties, particularly on a caravan site where (notwithstanding the comments of the applicant that many of the caravans would not be able to be moved without being damaged) should be capable of being moved. Whereas a blanket restriction on occupation is enforceable, identifying which caravans are occupied and which are not, would be inherently difficult if not virtually impossible. For example, if a limit was reached, how would a person attempting to enforce that limit know which caravan should be enforced against. A plan would be required to specifically identify which caravans would be occupied but no such plan has been submitted and there is no current way available to be able to identify specific caravans.

Housing Supply

- 7.1.32. Swale Borough Council cannot demonstrate a five year housing land supply. Therefore, where a proposal relates to the provision of housing, the approach set out at paragraph 11d) of the NPPF is applicable.
- 7.1.33. Setting aside the conflict with the development plan, caravans in C3 use are able to count towards Housing Supply, and the use of the site as housing could count towards the supply of housing within the Borough. Depending on the approach taken to the number of caravans that the relaxation would apply to, this could be any number up to 1,197 units across the applicant's overall holding, of which over 100 units are at this site. However, this 'supply' would only exist for 2 years and, as it would have to be discounted within the same assessment period, such temporary accommodation is not counted in the Council's 5 year housing land supply.

- 7.1.34. It is considered that a temporary housing supply boost can only be given limited weight as a planning benefit. It is not effectively addressing any housing shortfall as that shortfall would return in 2 years and it is not considered that caravan accommodation, which the applicant recognises is in poor condition, is a sustainable solution to addressing housing needs. It is recognised that a need is derived from the historic breaches of the conditions at the site and that the NPPF indicates that a sufficient amount and variety of land should come forward for housing, where it is needed and that the needs of groups with specific housing requirements are addressed.
- 7.1.35. The applicant identifies that the site and the wider land holding has been used to accommodate people on a year-round basis. This has been in breach of the abovementioned conditions and could be liable to enforcement action. This has created a situation where year-round occupiers are present and reliant on the accommodation. To refuse this application would result in it continuing to be the case that year round occupation would be in conflict with the abovementioned conditions and a breach of planning control, with harms that are identified elsewhere in this report. It is therefore considered that the future 'need' for housing that has been generated by the past breaching of planning conditions at the site needs to be weighed against the harms and conflict with national and local planning policies.
- 7.1.36. The applicant has indicated that occupiers would be made to leave the site from January 2026. Some of those occupiers might have no alternative accommodation available and, as such, could present themselves to the Council as homeless. The needs of the local population should be a material consideration and will be considered. The duty on the Council to accommodate any persons that are caused to be homeless could create considerable difficulties for the Council and it is a key component of the applicant's case that allowing the application would avoid implications for other services of the Council, primarily the Council's Housing Team who would potentially see a sharp increase in demand, with the cost and labour implications.
- 7.1.37. In this regard, it is considered relevant that the Council is not hereby deciding whether or not to serve a Planning Enforcement Notice or a Breach of Condition Notice at the site. The decision of the applicant to comply with planning conditions if this application is refused, which should be a fundamental requirement, would be a decision for the applicant. The problem that may or is likely to exist around persons being homeless is a consequence of the unlawful occupation of the site that is understood to have been enabled by the applicant's predecessors. Accommodating people that might not have alternative accommodation can be viewed as a benefit of granting planning permission. However, this could also be achieved by not enforcing the conditions or by the chosen form of enforcement.
- 7.1.38. A factor that is considered to be important to this assessment is the quality of the accommodation at the site. The pre-amble to Policies DM4 and DM5 identify that some of the Borough's accommodation of this type is of poor quality and in need of improvement. Consistent with this, the applicant's own Planning Statement sets out that some of the accommodation at the site is of poor quality, with their submission

stating that the caravans are old and liable to break if moved. In the absence of any form of detailed assessment of the quality of the accommodation, it is considered appropriate to give weight to a visual inspection of the site which suggests that much of the accommodation is not likely to accord to modern standards. Whilst it is expected that occupiers will value this accommodation and it is noted that reference has been made to the existence of a community spirit at the site and the holding in general, it is considered that the reliance on living accommodation that might not accord with modern standards should not be considered to be sustainable. In this regard and giving consideration to the potential to use a condition that limits the number of caravans, there is no evidence available to suggest whether those residents in the greatest need would have access to the best-kept caravans or those at the other end of the quality and maintenance range.

- 7.1.39. The proposal being a 'meanwhile use' is considered to weigh against the suggestion that the proposal would address a homelessness situation from occurring. It is acknowledged that the temporary availability of accommodation could provide a short-term solution to the existing hidden homelessness. However, it is integral to this that the applicant intends to bring the current situation to an end and re-develop the site. This would not address the situation in the medium term and, whilst occupiers would have a 2 year opportunity to find alternative accommodation, they would equally have 2 years to become more imbedded at the site and, potentially, develop a hope or expectation that a further year round occupancy will be provided in the future. There can be no certainty that the future proposals at the site would (or would not) be available to the current occupiers at the site and therefore, even noting that the temporary permission would afford those residents additional time to find alternative accommodation, it is likely that they would have to leave the site in due course in any case. Whilst a relocation management plan to guide occupiers to suitable accommodation prior to the end of the temporary period might have been able to be explored and been the subject of a condition, it is considered that there could be little comfort or certainty that such a plan would be effective and, in the circumstances that have been detailed by the applicant, it is not clear how a phased reduction of occupiers at the site would be able to be achieved. The proposal would be as likely to postpone any problems rather than address them.

Tourism and Economic Development Considerations.

- 7.1.40. Policy CP1 of the Local Plan seeks to safeguard or enhance Swale's 'Principal Tourism Assets' and to consolidate or widen the tourism potential of the borough. Holiday parks are listed under the borough's 'Principal Tourism Assets' and the supporting text sets out that these should be protected from inappropriate development. Policy ST6 seeks to support the existing tourism offer on the Isle of Sheppey and the supporting text to this policy emphasises the importance of tourism to the economy of the Isle of Sheppey. Policy DM3 promotes rural tourism and makes clear that residential development should not be permitted at the expense of rural employment. The supporting text to policy DM4 states that holiday parks provide direct employment and support shops, pubs, restaurants and visitor attractions.

- 7.1.41. Whilst the comments of the applicant relating to the manner in which the site has not operated as a conventional holiday destination are noted, to formally change the use of the site (even for a temporary period) would compound the loss of holiday accommodation and reduce the tourism offer that exists and is of significance to the local economy. This would be contrary to the above policies that seek to safeguard and enhance tourism and to prevent the use of holiday parks as a person's main residence.
- 7.1.42. No detailed information has been provided to demonstrate why the accommodation is not suitable for holiday use and there is no evidence that demonstrates insurmountable difficulties to use the units as holiday accommodation. The residential use of the site would undermine the clear strategies in the adopted local plan to promote and increase the tourism offer in the borough and on the Isle of Sheppey, where tourism plays a vital role in the local economy. In this regard the change of use is contrary to policies CP1, ST6, DM3, DM4 and DM5 of the Local Plan.
- 7.1.43. It is considered that these policies are consistent with the NPPF as paragraph 88 of that document states that planning decisions should enable “...*the sustainable growth and expansion of all types of business in rural areas and sustainable rural tourism and leisure developments which respect the character of the countryside*”.

Other Conditions

- 7.1.44. As set out above, regard has to be had to the use of other conditions. In this case, it is considered that any period of occupancy beyond 10 months would conflict with policy DM5, albeit potentially to a lesser degree.
- 7.1.45. Similarly, whilst a limitation on the number of units able to be occupied would reduce the scale of conflict, any occupancy contrary to the current conditions would inherently be in conflict with the development plan.
- 7.1.46. There are other materials considerations to consider in relation to this case, which will be addressed below. However, it must be a crucial consideration that the variation of condition, as sought or any comparable version of that amendment, would cause the development at the site to be contrary to the development plan and, at least in part, the NPPF.

Other Matters Related to Principle

- 7.1.47. As set out above, it is noted that the occupancy restriction conditions are likely to have been breached at the site. However, no case has been made by the applicant that these breaches have occurred for a sufficient time for any breaches to have become lawful and no Certificate of Lawfulness has been applied for to this effect. Consequently, it is not known that there is a fallback position to afford any weight in the assessment of this application.

- 7.1.48. Summary in Relation to the Principle of the Variation of Conditions

For the reasons set out above, the relaxation of the conditions that currently exist would be contrary to the development plan. The harms arising from this will be considered below and weighed against the benefits of supporting the applications within a planning balance assessment.

7.2. Heritage

- 7.2.1. Any planning application for development which will affect a listed building or its setting must be assessed in accordance with the requirements of section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires a local planning authority to have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest which it possesses.
- 7.2.2. The NPPF states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan.
- 7.2.3. There are heritage assets within the general locality near to the site but these would not be directly impacted upon by the proposal, this includes the Grade II listed buildings at Connetts Farm, Trouts Farm and Palm Trees Holiday Park. Any impacts on the setting would be limited to that caused by additional activity in the area arising from the additional usage of the site. In this instance, and having had regard to the Council's obligations pursuant to the Planning (Listed Building and Conservation Areas Act) 1990, it is considered that the additional activity would not be harmful to the aural setting of those heritage assets and, therefore, there would be no conflict with Policy DM32 of the Local Plan or the heritage section of the NPPF. Due to the distance between the site and the Grade II* listed Shurland Hall and the arrangement of that site relative to the highways that would be affected by the additional use, the proposed increased activity is not considered to impact on the setting of that listed building.

7.3. Ecology

- 7.3.1. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by Policies CP7 and DM28 of the Local Plan, which relates to the protection of sites of international conservation importance including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar Sites.

Protected habitats

- 7.3.2. Section 40 of the Natural Environment and Rural Communities Act (2006) states *“For the purposes of this section “the general biodiversity objective” is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England”* and *“A public authority which has any functions exercisable in relation to England must from time to time consider what action the authority can properly take, consistently with the proper exercise of its functions, to further the general biodiversity objective.”* Furthermore, the NPPF states that ‘the planning system should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity.’ The NPPF states that ‘if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.’
- 7.3.3. In terms of the Local Plan, Policy DM28 sets out that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.
- 7.3.4. The site is in proximity to the Swale Special Protection Area (SPA) and Ramsar site and the Medway Estuary and Marshes SPA and Ramsar site and Outer Thames Estuary SPA. The sites are designated because they provide important habitats for wintering, migratory and breeding waders, seabirds, waterfowl and other birds (the qualifying features). Their conservation objectives are to maintain or restore their integrity by maintaining or restoring the extent, distribution, structure, function and supporting processes of the habitats of the qualifying features, the population of each of the qualifying features, and the distribution of the qualifying features within the site.
- 7.3.5. Increased visits and recreational use by occupiers within proximity to the habitats sites are likely to disturb the qualifying features. This can affect their ability to feed, rest, and nesting, constituting Likely Significant Effects upon them. Though the magnitude of Likely Significant Effects would be dependent upon occupancy rates, this proposal would result in greater occupation of the site for a temporary period, within a distance of habitats sites where it is identified there would likely be increased visits from occupiers, with Likely Significant Effects, upon the qualifying features. A strategic package of measures to mitigate the effects of recreational pressure and disturbance are set out in the Thames, Medway and Swale Strategic Access Management and Monitoring Strategy. This is based upon a costed tariff, to fund mitigation measures for each unit or scheme. To effectively mitigate the Likely Significant Effects, the contributions must be secured, and mitigation undertaken prior to occupation.
- 7.3.6. In response to this application Natural England have confirmed that the proposal would impact upon the integrity of the habitats sites and qualifying features, if un-mitigated. This is also supported by the KCC Ecologist. Any increase in the occupation period, even on a temporary basis would mean there would be some effects and, as such, proportionate mitigation needs to be secured.

- 7.3.7. As with any planning application, the request for financial contributions needs to be scrutinised in accordance with Regulation 122 of the Community Infrastructure Regulations 2010 (which were amended in 2014). These stipulate that an obligation can only be a reason for granting planning permission if it is necessary, related to the development and reasonably related in scale and kind. Whilst it is unusual to seek planning obligations from a temporary planning permission, for the reasons given above it is considered that it would meet all of the applicable tests to do so in this case. To make this proportionate, the amount of contribution would need to be reflective of the period of increased occupation and the two year duration of the temporarily increased population. Moreover, the conventional contribution needs to be reduced as it relates to two months of the relevant 'wintering' period. Based on the current SAMMs rate, this would amount to £2.73 per unit. For the reasons set out above, the overall sum could fluctuate if any permission granted relates to all of the caravans at the application site or a reduced number.
- 7.3.8. At the time of preparing this report, the necessary mitigation has not been secured and, as such, there is a conflict arising with the abovementioned legislation and policies. It is, however, expected that this would be resolvable and it is clear from communications received that the applicant would be willing to address this matter. The absence or securing of mitigation has a material effect on planning balance considerations and, as such, both scenarios will be considered fully below.

On-Site Protected Species

- 7.3.9. No physical works are required and there is no basis to assume that the proposed variation of the occupancy period and other applicable restrictions would have any impact on protected species at the site.

Biodiversity Net Gain (BNG)

- 7.3.10. This application was submitted after the commencement of Mandatory Biodiversity Net Gain. However, the applicable guidance is clear that this does not apply to section 73 permissions where the original permission which the section 73 relates to was either granted before 12 February 2024 or the application for the original permission was made before 12 February 2024. That is the case here and, as such, there is no BNG requirement arising from this application.

7.4. Transport and Highways

- 7.4.1. Local Plan Policies CP2 and DM6 promote sustainable transport through utilising good design principles. They set out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm. Policy DM7 of the Local Plan requires parking provision to be in accordance with the Council's Parking SPD. The site is also reliant on the use of a designated rural lane and, as such, policy DM26 is applicable.

- 7.4.2. The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. A core principle of the NPPF is that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.”

- 7.4.3. The proposal would not increase the amount of accommodation at the site and there would be no alterations to the access to the site. Whilst the duration of the use would extend and the amount of annual vehicle movements can be expected to increase as a result, there is no reason to conclude that the extended occupancy periods would be used at a greater intensity than the currently authorised periods. Noting that the traffic associated with the use can already occur for 10 months of the year and presumably be more intensive in the summer period, it is not considered that the additional traffic arising from the 2 month winter period would have a severe impact on traffic that would conflict with the above extract of the NPPF. Moreover, there would be no requirement to provide additional parking. The variation of the condition would not, therefore, be in conflict with the abovementioned policies.
- 7.4.4. The effect of additional traffic on living conditions of nearby residents will be considered below.

7.5. **Air Quality**

- 7.5.1. The importance of improving air quality in areas of the borough has become increasingly apparent over recent years. Legislation has been introduced at a European level and a national level in the past decade with the aim of protecting human health and the environment by avoiding, reducing or preventing harmful concentrations of air pollution.
- 7.5.2. Policy DM6 of the Local Plan sets out that development proposals will integrate air quality management and environmental quality into the location and design of, and access to development and in so doing, demonstrate that proposals do not worsen air quality to an unacceptable degree.
- 7.5.3. The NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing new/existing development from contributing to or being put at unacceptable risk from, or being adversely affected by, inter alia, unacceptable levels of air pollution. It also requires the effects of air pollution and the potential sensitivity of the area to its effects to be taken into account in planning decisions.
- 7.5.4. The Planning Practice Guidance on Air Quality (Paragraph: 005 Reference ID: 32-005-20191101) states that:

“whether air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to have an adverse effect on air quality in areas where it is already known to be poor, particularly if it could affect the implementation of air quality strategies and action plans and/or breach legal obligations (including those relating to the conservation of habitats and species). Air quality may also be a material consideration if the proposed development would be particularly sensitive to poor air quality in its vicinity.

- 7.5.5. Given that the application is a major application (being on land that is more than a hectare), an Emissions Mitigation Assessment should have been submitted. In this instance, noting that the application relates to the variation of a condition to enable what is effectively 4 months of additional occupation (two months during each of two years), with no additional built development occurring, it is considered that any air quality impact would be limited. The site is not within or near an Air Quality Management Area and there is no reason to conclude that the proposal would have any more than a negligible impact on such an area through increased traffic occurring within those 4 months. From this basis, whilst there is a technical conflict with the Council’s Air Quality and Planning - Technical Guidance and, in turn, Policy DM6, it is considered that there would not be harm to air quality arising from this conflict that would represent a sound basis to object to the temporary effect of the development. In this respect it is noteworthy that the Council’s Environmental Health Officer has not raised any objection on this ground to any of the group of similar applications that are currently pending determination.

7.6. Flood Risk, Drainage and Surface Water

- 7.6.1. Policy DM21 of the Local Plan and the NPPF requires that Local Planning Authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed. Moreover, Policy DM5 indicates that flood risk can be a material consideration in assessing proposals to extend the occupancy period of holiday parks.
- 7.6.2. The site is located within Flood Zone 1 in terms of fluvial and tidal flooding. In terms of surface water flooding, the Environment Agency Flood Risk map shows very minor elements of the site as being liable to surface water flooding. In this instance, noting the nature of the application, it is considered that the application passes the sequential test as it relates to the variation of an existing permission and therefore, by default, the application could only have been submitted in respect of the land at this site. Whilst no Flood Risk Assessment has been submitted, the small pockets of surface water flooding that are likely to occur would be of such negligible scale that it is not considered that the development would be unsafe if occupied through the additional months, even noting that rainfall and ground saturation is likely to be highest at this time. The absence of a flood risk assessment is a technical conflict with the abovementioned policies and the NPPF but, taking an approach that is similar to that taken by the Inspector in appeal APP/V2255/W/24/3350524 (Ham Road, Faversham), it is considered that there would be no real-world harm arising from the proposals and no increased risk of flooding on or off site as there would be no physical development proposed.

7.7. Impact of Additional Activity on Living Conditions and Countryside TranquillityExisting residents

- 7.7.1. Policy DM14 of the Local Plan and the NPPF requires that new development has sufficient regard for the living conditions of neighbouring occupiers. Of specific relevance to holiday parks and their occupancy period, Policy DM5 indicates that the amenity and tranquillity of residential areas is to be safeguarded. Tranquillity, to local residents and the countryside locality in general will be considered further below. However, in relation to other matters such as light, privacy, outlook and other such direct impact impacts, no additional impacts would be caused and so no objection is raised.

Site Occupiers

- 7.7.2. The accommodation at the site would not be altered by the proposed variation of condition. Regard is had to the current users of the site elsewhere in this report but, in terms of light, privacy, outlook, and other such direct impacts, it is not considered that there would be a worsening of conditions that would represent a ground to object to the application.

Countryside Tranquillity

- 7.7.3. In addition to the extract of Policy DM5 that is referenced above, the pre-amble to the policy advises that one of the purposes of the limitation on the occupancy period is to retain a period of tranquillity in rural and other areas. In the recent appeal with respect to a similar proposal at Vanity Farm Camp (APP/V2255/W/24/3356382), the Inspector found that the policy is consistent with National Planning Policy Framework objectives in respect of protecting local character, seeking to strike a balance with other competing policy objectives such as in respect of economic development and tourism. This approach is also consistent with Policy ST3 which identifies that within the open countryside, development will not be permitted unless it contributes to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities. The current restriction, in part, creates a period of tranquillity that accords with this policy aim.
- 7.7.4. Whether the extended occupancy period is afforded to all of the units at the site or a smaller number to reflect the number of residents that have previously occupied the site in breach of conditions, the extended occupancy period would undermine the period of tranquillity through additional activity. Traffic, congestion, noise and tranquillity all vary according to the season and the restriction on occupancy is intended to provide local residents with a quiet period to appreciate the rural surroundings. The occupation of the application site throughout the year would bring

about activity, noise and traffic in winter months that would be harmful to rural character and would clearly conflict with Policy DM5 of the Local Plan.

7.7.5. It is considered relevant to note that this matter has previously been tested at one of the site's within the applicant's control, Brookside Park. At appeal APP/V2255/W/21/327474, the Inspector found that *"The conditions securing the closure of the appeal site during the winter months ensure that permanent residents locally are able to experience the tranquillity of the area when it is free from visitors. Their proposed removal would mean that the site would remain open during the currently closed winter months, harming this existing character by removing the respite and tranquillity during this period. In addition, if permanent residential use were allowed of the caravans, then this would make it likely that the character of the site would change when in occupation during the summer months."* That Inspector went on to identify longer term impacts which are not relevant to this application. The Council has also previously reached a similar view with respect to an application at the nearby Beverley Camp and an Inspector reached a similar view in relation to the appeal at Vanity Farm Camp, which is within the applicant's wider holding. It is noted that the impact would be temporary and, therefore, different to that which was experienced in those cases. However, there would still be an impact for that period that is contrary to the aims of the development plan.

7.7.6. For this reason, the impact on the character of the area arising from the disturbance and the associated effect on tranquillity, would be contrary to policies ST1, ST3 and DM5 of the Local Plan and the NPPF.

7.8. Other matters

7.8.1. No additional built form or caravans are proposed as part of the proposed variation of condition and, as such, there would be no additional structures or items at the site. From this basis, there would not be any additional visual impact or any additional effects on open space demand or provision, trees, archaeology, erosion or contamination.

7.8.2. Given that the effect of the variation of the condition would be temporary, for a two year period, and only effectively have an effect for a total of 4 months across that time, it is not considered that it would be reasonable to secure any other planning obligations or community infrastructure provisions, other than that which is addressed elsewhere in this report which is required to directly mitigate an effect arising from the proposed variation of condition. For similar reasons, it is not considered that it would be reasonable to require the site to achieve renewable energy generation or energy/water efficiency improvements and, therefore, no objection is raised by Officers on the grounds that the proposed variation would not address the requirements of Policy DM19.

- 7.8.3. The applicant acknowledges and it is known that there have been periods where the conditions referred to above, potentially at this site as well as other holiday parks with comparable conditions, have been breached. This has continued to a point where it is known that some users of the holiday parks in this area have used them as the main residence. Within their Planning Statement, the applicant indicates that this could amount to 400 or more people occupying 200 or more caravans at the sites that are in their control. This application site is likely to account for a portion of that unauthorised occupation. Any under-enforcement that has occurred is not considered to be reason, in itself, to conclude that the conditions no longer serve a purpose or should be set aside for a temporary period. Enforcement is discretionary and, if any breaches are brought to the Council's attention, in accordance with the Planning Enforcement Strategy, the Council would have choices to make around whether to enforce and, if applicable, how to enforce. The conditions that exist are considered to meet the relevant tests of enforceability and reasonableness and, as such, these are not grounds to vary the conditions.
- 7.8.4. The applicant has indicated that options have been explored relating to limiting the breach by moving all year-round users of the wider holding into a single part of the site. However, this has been deemed to be impractical for several reasons.

Interim Policy Statement

- 7.8.5. The Full Council adopted an interim planning policy on park homes on 17 June 2020 as 'a material consideration that will hold some weight in the consideration of applications for park home proposals'. However, the interim policy is considered to hold limited weight given that it was not progressed via the development plan process, and has not been subject to scrutiny through consultation and examination. This approach has been supported at subsequent appeals including those at Plough Leisure Caravan Park, Brookfield Park, Golden Leas Holiday Park and Estuary View Caravan Park
- 7.8.6. The interim policy sets out a list of criteria for compliance. This includes the requirement that the site is in a sustainable location with access to services and facilities, and other criteria which, in some cases the proposals would comply with but in others, it has not been demonstrated that the proposal would comply, the accommodation meeting identified standards for example. It is set out elsewhere why these specific matters are a concern in relation to this application. Therefore, given the limited weight that should be attached to this interim policy, together with the conflict in any case with its criteria, it is still considered that the application is unacceptable.

Human Rights Act and Public Sector Equality Duty (Equality Act 2010)

- 7.8.7. The applicant states at several locations within their Planning Statement that some of the users of the site have health conditions and it is noted that some will consider the caravans to be their homes. In terms of personal circumstances of the site users, the applicant has not provided any specific details. No representations have been

received detailing any specific considerations that the Council is required to have regard to. The Council has a duty to have due regard to the Public Sector Equality Duty as detailed within the Equality Act 2010 and the Human Rights Act 1998.

- 7.8.8. In line with the Human Rights Act 1998, it is unlawful for a public authority to act in a way which is incompatible with a Convention right, as per the European Convention on Human Rights. The human rights impacts that are most relevant to planning are Article 1 of the First Protocol (Protection of property), Article 8 (Right to respect for private and family life) and Article 14 (Prohibition of discrimination) of the Convention.
- 7.8.9. Where the peaceful enjoyment of someone's home and/or their private life is adversely affected, their Article 8 and/or Article 1 of the First Protocol rights may be engaged. The loss of other forms of property (e.g. business premises) may engage rights under Article 1 of the First Protocol. These rights are both what are known as 'qualified rights', that is, they are not absolute rights but involve some form of balancing exercise between the rights of the state to take various steps and the rights of the individual or other affected body/organisation.
- 7.8.10. In the case of Article 8 rights, the interference must be in accordance with law and be considered necessary in the interests of national security, public safety or the economic well-being of the country, for the prevention of crime/disorder, for the protection of health/morals or for the protection of the rights and freedoms of others
- 7.8.11. In the case of *RLT Built Environment Ltd v Cornwall Council* (a judicial review from 2016), the Court drew out a number of points concerning how to approach the loss of a home in the context of the planning process. The points set out by the Court were as follows:
- I. Article 8 does not give a right to a home, or to a home in any particular place.*
- II. However, where someone has a home in a particular dwelling, it may interfere with the article 8 rights of him and/or his family to require him/them to move.*
- III. Whilst those rights demand "respect", they are of course not guaranteed. In this context, as much as any other, the public interest and/or the rights and interests of others may justify interference with an individual's article 8 rights.*
- IV. Where article 8 rights are in play in a planning control context, they are a material consideration.*
- 7.8.12. Any interference in such rights caused by the planning decision has to be balanced with and against all other material considerations, the issue of justification for interference with Article 8 rights effectively being dealt with by way of such a fair balance analysis.

That balancing exercise is one of planning judgment.

Article 8 rights are, of course, important: but it is not to be assumed that, in an area of social policy such as planning, they will often outweigh the importance of having coherent control over town and country planning, important not only in the public interest but also to protect the rights and freedoms of other individuals”.

7.8.13. In terms of Article 1 of the First Part, this provides as follows:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No-one shall be deprived of his possessions except in the public interest and subject to conditions provided for by law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

7.8.14. There are three key rules. The first is the principle of peaceful enjoyment of property. The second covers the deprivation of possessions and subjects it to certain conditions. The third recognises that that property can be controlled in the general interest.

7.8.15. Claims under any of the three rules need to be examined under four headings:

- I. Whether there was an interference with the peaceful enjoyment of “possessions”;*
- II. Whether the interference was “in the general interest”;*
- III. Whether the interference was “provided for by law”;*
- IV. Proportionality of the interference.*

7.8.16. In terms of assessing the proportionality of the interference, domestic case-law (Thomas v Bridgend County Borough Council in the Court of Appeal [2011], applying the European case of Bugajny), has summarised the approach as follows:

“The cases show that the issue of proportionality can be expanded into the following question:

“whether the interference with the applicants' right to peaceful enjoyment of their possessions struck the requisite fair balance between the demands of the general interest of the public and the requirements of the protection of the individual's fundamental rights, or whether it imposed a disproportionate and excessive burden on them.” (Bugajny [...] para 67).”

7.8.17. Article 14 of the Convention deals with the requirement for Convention freedoms to be available to all on a non-discriminatory basis. Article 14 is not a free-standing right in the same way as the other Articles that are mentioned above.

- 7.8.18. In line with the Public Sector Equality Duty ('PSED') the Council must have due regard to the need to eliminate discrimination and other forms of less favourable treatment such as harassment and victimisation, and to advance equality of opportunity and foster good relations as between persons who share a protected characteristic and persons who do not share it. The PSED is set out in section 149 of the Equality Act 2010. A protected characteristic for these purposes is age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. Advancing equality will amongst other measures remove or minimise disadvantages suffered by people due to their protected characteristic and take steps to meet the needs of people from protected groups where these are different from the needs of other people.
- 7.8.19. In planning terms, the potential impacts of a proposal on an individual or on groups of individuals should be addressed by the decision-maker as a material consideration. In balancing this against other material considerations, the decision-maker should also ensure that they give due weight to what is required by their statutory duties, including the requirements of the PSED.
- 7.8.20. If planning permission were refused, then occupation of the units at the site would be restricted to the existing 10 month period that is defined by the permission and in alignment with development plan policy. The occupiers would be required to vacate their units for most of January and all of February each year and would only be permitted to use the units for holiday/recreational use.
- 7.8.21. In terms of Article 8 rights (that is, the right to respect for the home and private life), the right is engaged by virtue of the continued inability to use the homes on the park for most of January and February in each of the two years. If the conditions are correctly followed, the occupiers will be required to find alternative accommodation. The question is whether the interference with the rights of affected individuals can be considered proportionate and necessary and so able to be justified under the second limb of Article 8. This involves weighing the interference against other material considerations in order to arrive at a fair balance between the interests of the individual and the interests of the community as a whole.
- 7.8.22. Development plan policy does not support year-round occupation of the Borough's holiday parks. Condition 2 of the effective planning permission aligns with this and the conditions that are in effect also require the caravans to be used for holiday and recreational use only, preventing the caravans being occupied as a sole or main residence. The occupants of the site would be required to move out of their park homes for at least two months of each year and would not be able to use the homes as a sole or main residence. Officers acknowledge that this could be disruptive or highly disruptive for those affected
- 7.8.23. Some groups are likely to be more sensitive than others to displacement. The proportion of the occupiers of the site that might consider themselves to fall within these groups has not been made clear but, based on the applicant's submissions, including but not limited to the incident record that has been provided at Appendix 5

of the Applicant's Statement, it is considered appropriate to proceed on the basis that this would affect some persons with protected characteristics.

- 7.8.24. Taking into account the nature of the impact on the existing occupiers, officers consider the benefits of resisting unplanned residential development in an unsustainable location and protecting the rural character of this part of Sheppey, which is in the public interest, would outweigh any interference with the rights of the individual under Article 8.
- 7.8.25. As regards Article 1 of the First Protocol rights in relation to residential occupiers, officers have proceeded for the purposes of assessing this application on the basis that this right is engaged by the temporary displacement from the caravans on the site each year and the restriction on occupation of the caravans as a sole or main residence. That interference can be regarded as being in the general interest, with the operation of the planning system being a legitimate interest of the state
- 7.8.26. Refusing a planning application has different implications to taking enforcement action. Whilst a refused planning application does not resolve a situation or provide comfort, neither does it, in itself, cause or require the cessation of the unauthorised use. In this case the granting of planning permission would provide certainty for residents for a 2-year period, but it would not be until positive action to require the removal of residents takes place that the Council would be responsible for making persons homeless. There would be options open to the Council in relation to enforcement. It is considered that the proportionality of refusing a planning application as opposed to taking enforcement action has to be a consideration in this case, particularly in light of the limited period of respite that would be afforded to occupiers. In this respect, the implication of the Human Rights Act is considered to be different to an application relating to the permanent use of a site or a decision whether to take enforcement action.
- 7.8.27. In officers' assessment, taking account of the nature of the impact on residential occupiers, the proposed mitigation measures and the public benefits of the scheme, a fair balance is arrived at between the protection of the rights of affected individuals and the interests of the wider community and a disproportionate or excessive burden would not be imposed.

7.9. **Planning Balance – Benefits and Harm**

- 7.9.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.9.2. The amended restrictions would enable harm to tranquillity. The proposal would also be contrary to the authorised use and allocation of the site as a holiday park, thereby undermining its intended use as a driver of tourism and the associated economic activity that derives from tourism, which is important to the local economy. For these

reasons and due to the site being located in the countryside, the proposal is contrary to the development plan Settlement Strategy. Therefore, the application conflicts with policies ST1, ST3, ST6, CP1, CP2, DM3, DM4 and DM5 of the Local Plan. Moreover, whilst it would be resolvable, the proposal fails to mitigate its impact on designated habitat sites, which conflicts with policy ST1, CP7, DM14 and DM28 of the Local Plan. Therefore, while no objection is raised on the basis of the application of other policies, the development plan as a whole indicates that planning permission should be refused.

- 7.9.3. The NPPF is a material consideration and as the Council are unable to demonstrate a 5-year supply of housing land, paragraph 11.d of the NPPF is engaged. This states the following:

“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.”

- 7.9.4. In this case, as per part (i) and as a result of the impact on designated habitats not being mitigated, the application of policies that protect areas or assets of particular importance do provide a strong reason for refusing the development. Paragraph 195 of the NPPF also clarifies that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site.

- 7.9.5. However, proceeding on the basis that this is resolvable if the proposal was acceptable in all other respects, it is considered that it is sensible to undertake an assessment on the basis of the habitats issue being addressed. In such circumstances, it would need to be considered whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole This assessment is carried out below.

Benefits

- 7.9.6. The primary benefit is that the proposal would provide year-round accommodation for people that are understood to have become reliant on the accommodation at the site,

many of whom it is indicated would not have alternative accommodation immediately available to them. Formally allowing the accommodation to be used on a year-round basis and not as holiday accommodation would avoid a potential situation where people could be made homeless if the site owners decide to comply with the conditions which should have been complied with previously.

- 7.9.7. The proposal would also provide a temporary boost to housing supply as, if the conditions are relaxed, the caravans could be considered temporary accommodation which can be counted towards a 5 year housing land supply. This would however represent a temporary boost which would be reversed in 2 years time and, as such, does not represent a substantive solution to the Council's inability to demonstrate a five year housing land supply.

Harm

- 7.9.8. In the same way that the abovementioned housing supply benefit would be temporary, the harms caused would be temporary.
- 7.9.9. For reasons set out above, the temporary proposal would conflict with the Settlement Strategy and represent an unsustainable form of development in a countryside location.
- 7.9.10. The relaxation of the conditions would effectively enable a temporary change of use that would be contrary to the development plan. The site is allocated as a holiday park and it is expected that the site should be used in such a way that generates economic activity throughout the local area. Whilst it is noted that the applicant's case is that the site does not function as a holiday park, the potential to achieve tourism activity through the use of the site would be temporarily lost.
- 7.9.11. A reason for the occupancy period being 10 months is to create a period of tranquillity. Albeit it would only be for a temporary period and it is understood that activity has been occurring in breach of the conditions (at this site and others) which would have undermined this objective, it is considered that formally allowing this activity to occur would cause harm to tranquillity and materially and unacceptably change the character of the area, for that temporary period.

Planning Balance (excluding the impact on protected habitats for the reason set out at 7.9.5)

- 7.9.12. Excluding the impact on protected habitats for the reason set out at 7.9.5 and applying the 'tilted balance' on the basis that the protected habitats issue can be easily resolved, it is still considered that the harm arising from the impact of the development and the associated conflict with paragraphs 88 and 187 of the NPPF would significantly and demonstrably outweigh the benefits of the proposal. The proposal is, therefore, contrary to the NPPF when taken as a whole. The proposal is also contrary to the development plan when it is taken as a whole for the reasons that are set out above. Having regard to other material planning considerations, including the housing needs

of people that have been using the site, and weighing those factors against the harms that have been identified and the conflict with national policy and the development plan, it is considered that planning permission should be refused.

Planning Balance (including the impact on protected habitats for the reason set out at 7.9.5)

- 7.9.13. Including the impact on protected habitats for the reason set out at 7.9.5 makes the balancing exercise far simpler. The unmitigated impact on protected habitats would provide a strong reason for the refusal of the application and, therefore, the NPPF would indicate, even more strongly, that planning permission should be refused.

7.10. Conclusion

- 7.10.1. For the reasons given above, the development plan indicates that planning permission should be refused and other material considerations, including the NPPF, do not indicate that a different decision should be reached. Consequently, it is recommended that the application is refused on the grounds of the impact on tranquillity, the impact on tourism and the rural economy, the conflict with the development plan settlement strategy and due to the lack of a SAMMS contribution.

- 7.10.2. In considering the application, account has been taken of the information included with the application submission, the National Planning Policy Framework and the Development Plan, and all other material considerations including representations made including the views of statutory and non-statutory consultees and members of the public.

7.11. Recommendation

- 7.11.1. Refuse the application for the following reasons:

7.12. Reasons for refusal

1. The effect of the application would be to, temporarily, formalise the removal of accommodation from being available for use for tourism purposes and enable the site to be put to residential use. This is contrary to the purposes of the allocated holiday park and would cause harm to the local economy to which tourism is an important contributor. Moreover, the proposal would cause harm to the tranquillity and character of the locality. Furthermore, the proposal would be contrary to the Settlement Strategy for the Borough of Swale and the Isle of Sheppey Area Strategy by enabling a residential use to occur in a countryside location that is remote from the nearest settlements where a good range of services are available, that lacks the prospect of

residents being able to integrate with the existing communities and is served by limited access to public transport to services, thereby resulting in a car dependent population. Having had regard to all other material considerations and having given consideration to whether any alternative conditions would be able to make the development acceptable, the proposal is, considered, unacceptable and contrary to Policies ST1, ST3, ST6, CP1, CP2, DM3, DM4, DM5 and DM14 of Bearing Fruits 2031 - The Swale Borough Local Plan 2017; and the National Planning Policy Framework

2. The proposed development will create potential for recreational disturbance to the Swale Special Protection Area and fails to provide adequate mitigation against that potential harm. The development would therefore affect the integrity of this designated European site, and would be contrary to the aims of policies ST1, CP7, DM5 and DM28 of Bearing Fruits 2031 - The Swale Borough Local Plan 2017; and the National Planning Policy Framework



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3.5 REFERENCE NO -- 25/503389/FULL		
PROPOSAL -- Section 73 - Application for removal of conditions 2, 3, and 4 (to allow year-round residential occupancy of caravans for a temporary period until 31 December 2027) pursuant to SW/11/1525 for - Variation of Condition (5) of application reference NK/8/50/101 to extend the season from eight months to ten months for the period from 1st March to 3rd January in each year.		
SITE LOCATION -- Shurland Dale Holiday Park Warden Road Eastchurch ME12 4EN		
RECOMMENDATION -- Delegate to the Head of Planning to refuse planning permission.		
APPLICATION TYPE -- Full – Section 73.		
REASON FOR REFERRAL TO COMMITTEE -- The Head of Planning considers it to be in the public interest for the application to be determined by the Planning Committee.		
Case Officer – Demetri Prevatt		
WARD Sheppey East	PARISH/TOWN COUNCIL Eastchurch	APPLICANT Kent Holdco Ltd AGENT Laister Planning
DATE REGISTERED – 01/09/2025		TARGET DATE - 01/12/2025
BACKGROUND PAPERS AND INFORMATION: - 5061-355 -- Site Location Plan; - Covering Letter -- Prepared by Laister Planning Ltd. (08.08.2025); and - Planning Statement -- Prepared by Laister Planning Ltd. (08.08.2025). The full suite of documents submitted and representations received pursuant to the above application are available via the link below: https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=T0U1Q7TYKLB00		

1. SITE LOCATION AND DESCRIPTION

- 1.1. The Shurland Dale Holiday Park (North) is a 4.5ha square-shaped holiday located on the southwest side of Second Avenue, which is an access road running through the large cluster of holiday parks located to the northeast of Eastchurch. It was formerly Bramley Park but is now the northern site of the Shurland Dale Holiday Park with the southern site located to the south. The site is situated centrally within the cluster of holiday parks surrounded entirely by other holiday parks including Elmhurst Caravan Park, Pleasant View Caravan Park, and Sunnyside Chalet Park. Shurland Dale Holiday Park (North) is comprised of over one-hundred and twenty-five (125) caravan plots and is one of the eight (8) individual holiday parks that are controlled by the Applicant and combine to form the larger Kent Parks site.

- 1.2. Kent Parks is comprised of Brookside Leisure Park, Cliff Cottage Chalet Park, Eastchurch Holiday Camp, Elmhurst Caravan Park, Pleasant View Caravan Park, Shurland Dale Holiday Park (North Site - Formerly Bramley Park), Shurland Dale Holiday Park (South Site), and Sunnymead Caravan Park. These eight (8) parks are adjacent to each other and share both ancillary facilities and operation services. The ancillary amenities and facilities include a convenience store (currently closed), children's playgrounds, laundrette facilities, outdoor amenity spaces, office space for the management company, two (2) reception buildings, and two (2) clubhouses with their own arcade, bar, event space, restaurant, and swimming pool.
- 1.3. The Kent Parks site is located to the northeast of Eastchurch outside of the build-up area boundaries of the Tier 4 rural local service centre. It is accessible from the rest of the Isle of Sheppey via Warden Road, which leads to an internal road network comprised of First, Second, Third and Fourth Avenues. Some of the properties neighbouring the site are residential in nature, some are agricultural units or open countryside, with the northeast coastline being within walking distance to the north. The site's proximity to the coastline means that parts of the Kent Parks site is within the Coastal Change Management Area and Erosion Zone 2, but the designated area does not include this site.
- 1.4. The entire Kent Parks site is located within the impact risk zones of both the Sheppey Cliffs and Foreshore Sites of Special Scientific Interest (SSSI) and the Swale SSSI. Similarly, the site is within the 6.0km buffer zones of the Swale RAMSAR site and Special Protect Area (SPA), as well as the 6.0km buffer zone of the Outer Thames Estuary SPA.
- 1.5. In regard to other relevant planning constraints, the entire Kent Parks site is located within an area safeguarded for Brickearth. While it is also situated within Flood Zone 1, only parts of the site are considered to be at high risk of Surface Water flooding by the Environment Agency.
- 1.6. The list provided allow notes the planning constraints for the site:
- Agricultural Land Classification: Grade 3
 - Built-Up Area Boundary: Outside
 - Flood Zone: 1
 - Grade II* Listed Building: Shurland Castle
 - Grade II Listed Buildings: Connetts, Fletcher Battery, and Trouts (Nearby)
 - Grade II Listed Buildings: Trouts Farm + Fletcher Battery (Both Nearby)
 - Great Crested Newt: Green Zone
 - Holiday Park: Within
 - KMWLP - Safeguarded Area: Brickearth Swale Areas
 - Lower Medway Internal Drainage Board
 - National Character Area: Greater Thames Estuary
 - The Medway Estuary and Marshes RAMSAR Site: Within Zone of Influence
 - The Medway Estuary and Marshes SPA: Within Zone of Influence
 - The Outer Thames Estuary SPA: Within 6.0km Buffer Zone

- The Sheppey Cliffs and Foreshore SSSI Risk Zone: Within
- The Swale RAMSAR Site: Within 6.0km Buffer Zone
- The Swale SPA: Within 6.0km Buffer Zone
- The Swale SSSI Risk Zone: Within

2. PLANNING HISTORY

- 2.1. 21/506566/FULL -- Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1525, to allow the caravan park to open/be occupied for 12 months per year as a holiday park. (resubmission of 20/505317/FULL).

Refused -- 21.03.2022.

- 2.2. 20/505317/FULL -- Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1525, to allow the caravan park to open/be occupied for 12 months per year as a holiday park.

Refused -- 19.03.2021.

- 2.3. 16/508223/FULL -- Variation of Condition 2 of planning permissions SW/11/1525 and SW/11/1042 to allow 12 month occupation of one caravan for staff/warden accommodation.

Conditionally Granted -- 21.03.2016.

- 2.4. SW/11/1525 -- Variation of Condition (5) of application reference NK/8/50/101 to extend the season from eight months to ten months for the period from 1st March to 3rd January in each year.

Conditionally Granted -- 03.02.2012.

- 2.5. NK/8/50/101 -- Caravan site layout.

Conditionally Granted

Other Relevant Applications and Appeal Decisions.

- 2.6. Whilst it is essential that all cases are considered on their own merits, it is also appropriate for Local Planning Authorities to act consistently and have regard to the outcome of other appeals as material considerations, particularly where it might inform the manner in which policies are interpreted and applied. Other comparable applications and appeals relating to the use of holiday parks on a year-round basis received since January 2020 include the following:

- 2.7. Beverley Camp, Warden Road, Eastchurch.

Application 22/505778/FULL – Refused

Retrospective application for change of use from a holiday park (10 months occupancy) for the siting of 21no. residential retirement park homes for use all year round.

2.8. Shurland Dale Holiday Park, Warden Road, Eastchurch

20/505304/FULL – Refused

Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1042, to allow the caravan park to open/be occupied for 12 months per year as a holiday park.

2.9. Vanity Farm Camp, Leysdown Road, Leysdown

Application 22/505752/FULL – Refused

Section 73 - Application for variation of condition 2 (to allow use of the holiday park on a year-round basis) pursuant to SW/11/1608 for - Variation of condition (i) of planning permission NK/8/50/51 to allow occupation of the site for 10 months (1st March to 2nd January).

Appeal APP/V2255/W/24/3356382 – Dismissed

Application 21/505773/FULL - Approved

Section 73 - Application for a temporary variation of condition 2 (occupancy restriction) pursuant to application SW/11/1608, to allow occupancy of the chalet/caravans from the 02/01/2022 to 28/02/2022 (after which the park will revert back to a 10 month occupancy restriction).

Applications 20/505526/FULL, 20/503803/FULL and 20/502453/FULL approved a similar temporary permission at individual units 1, 85, 77 Vanity Farm Camp.

A similar temporary variation was approved at land adjoining Vanity Farm and now part of Harts Park under the terms of application 21/505699/FULL and a further application at Harts Park for a similar temporary change was approved under 21/505692/FULL.

2.10. Brookside Park, First Avenue, Eastchurch, Sheppey

Application 20/504175/FULL – Refused

Section 73 application to permit permanent year round residential use of caravans - removal of conditions 2 (occupancy restriction) and condition 3 (occupancy restriction) imposed on planning permission reference SW/11/1521

Appeal APP/V2255/W/21/3274740 – Dismissed.

2.11. Golden Leas Holiday Park, Bell Farm Lane, Minster on Sea

Application 20/503267/FULL – Refused

Section 73 application to vary condition 2 of planning permission ref SW/11/1588 to permit permanent year round residential use of 20no. caravans (age restricted to over 55s) as identified by drawing no. 4348-510 (The remainder of the site to continue in use for the stationing of caravans as holiday accommodation and for a maximum 10 month period each year).

Appeal APP/V2255/W/21/3279116 – Dismissed.

2.12. Estuary View Caravan Park, Bell Farm Lane, Minster on Sea

Application 20/503268/FULL – Refused

Section 73 - Application to permit permanent year round residential use of caravans - Removal of Conditions 2 (occupancy restriction), 3 (occupancy restriction) and 4 (compliance with schedule of requirements) imposed on planning permission reference SW/12/0195.

Appeal APP/V2255/W/21/3279125 - Dismissed

2.13. Ives Holiday Camp, Park Avenue, Leysdown

Application 20/502813/FULL – Refused.

Section 73 - Application to permit permanent year round residential use of caravans - removal of condition 2 (occupancy restriction), 3 (occupancy restriction) and 4 (occupancy restriction) imposed on planning permission 19/502752/FULL for retention of existing dwelling and change of use of land to a holiday caravan park.

2.14. Plough Leisure Caravan Park, Plough Road, Minster on Sea

Application 20/502811/FULL – Refused

Section 73 - Application to permit permanent year round residential use of caravans (age restricted to over 55s) for the land outlined in red on plan PL-LOC - removal of condition 2 (occupancy restriction), 3 (occupancy restriction) and 4 (occupancy restriction) imposed on planning permission SW/12/0024

Appeal APP/V2255/W/21/3277288 – Dismissed

20/505401/FULL – Approved

Section 73 - Application for a temporary variation of condition 2 (occupancy restriction) pursuant to application SW/12/0024, to allow occupancy of the caravans and chalets on the park during January and February 2021 (after which the park will revert back to a 10 month holiday occupancy restriction).

2.15. Hollybush Farm Caravan Park, Oak Lane, Minster-on-sea

22/500510/FULL – Approved

Section 73 - Application for temporary variation of condition 2 (occupancy restriction) pursuant to application SW/11/1587, to allow occupancy of the chalets/caravans from the 02/01/2022 to 28/02/2022 (after which the park will revert back to a 10-month occupancy restriction).

2.16. Sheerness Holiday Park, Halfway Road, Minster-on-sea

21/506564/FULL – Refused

Section 73 - application for Variation of condition 2 (occupancy restriction) of SW/12/0080 to allow the caravan park to open/be occupied for 12 months per year as a holiday park. (Resubmission of 20/505387/FULL).

As detailed in the description, similar application 20/505387/FULL was refused.

2.17. Central Beach Caravan Park, Grove Avenue, Leysdown

21/506563/FULL – Refused

Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1522, to allow the caravan park to open/be occupied for 12 months per year as a holiday park. (Resubmission of 20/505388/FULL).

2.18. Ashcroft Caravan Park, Plough Road, Eastchurch

21/506558/FULL – Refused

Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1044, to allow the caravan park to open/be occupied for 12 months per year as a holiday park. (Resubmission of 20/505316/FULL).

As detailed in the description, similar application 20/505316/FULL was refused.

2.19. Seafields Caravan Park, First Avenue, Eastchurch

21/506426/FULL – Approved

Section 73 - Application for variation of condition 2 (occupancy restriction) pursuant to application SW/11/1284, to allow the caravan park to open/occupied for additional 2 months in 2022 (January and February) on a temporary basis.

2.20. Copperfield Holiday Park, Fourth Avenue, Eastchurch

20/505905/FULL – Approved

Section 73 - Application for a temporary variation of condition 2 (occupancy restriction) pursuant to application SW/11/1432, to allow occupancy of the caravans and chalets on the park during January and February 2021 (after which the park will revert back to a 10 month holiday occupancy restriction).

3. PROPOSED DEVELOPMENT

3.1. The application, submitted under the terms of Section 73 of the Town and Country Planning Act, is seeking an amendment to the conditions imposed on Planning Permission ref. SW/11/1525 which granted permission for “Variation of Condition (5) of application reference NK/8/50/101 to extend the season from eight months to ten months for the period from 1st March to 3rd January in each year.”

3.2. The amendment would temporarily enable year-round occupation of the caravans located within the holiday park for a period ending on 31.12.2027 and enable a

relaxation of the nature of the occupation, through the re-wording of Conditions 2, 3 and 4.

- 3.3. Since the amendment would only affect the occupancy allowed by the extant Planning Permission and its conditions, no physical alterations or amended drawings are required. The only changes would be to the relevant existing conditions that are copied below.

Condition 2 -- Allowable Period of Occupation

No caravans shall be occupied except between 1st March and 2nd January in the following calendar year, and no caravan shall be occupied unless there is assigned agreement between the owners or operators of the Park and all caravan owners within the application site, stating that:

- a) The caravans are to be used for holiday and recreational use only and shall not be occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence; and
- b) No caravans shall be used as a postal address; and
- c) No caravan shall be used as a residence for registering, claiming or receipt of any state benefit; and
- d) No caravan shall be occupied in any manner, which shall or may cause the occupation thereof, to be or become a protected tenancy within the meaning of the Rent Acts 1968 and 1974; and
- e) If any caravan owner is in breach of the above clauses their agreement will be terminated and/or not renewed upon the next expiry of their current lease or licence.

On request, copies of the signed agreement[s] shall be provided to the Local Planning Authority.

Grounds: In order to prevent the caravans from being used as a permanent place of residence, an in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.

Condition 3 -- Signed Agreement

Any caravan that is not the subject of a signed agreement pursuant to Condition 2 shall not be occupied at any time.

Grounds: In order to prevent the caravans from being used as a permanent place of residence, an in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.

Condition 4 -- Operation Management

The owners or operators of the Park shall at all times operate the Park strictly in accordance with the terms of the Schedule appended to this decision notice.

Grounds: In order to prevent the caravans from being used as a permanent place of residence, an in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.

Schedule

The park operator must:

1. Ensure that all caravan users have a current signed agreement covering points (a) to (e) in condition 2 of the planning permission; and
2. Hold copies of documented evidence of the caravan users main residence and their identity; this may comprise of utility bills, Council Tax bill, passport, driving licence or similar document; and
3. On request, provide copies of the signed agreement[s] to the Local Planning Authority; and
4. Require caravan users to provide new documentation if they change their main residence; and
5. Send all written communications to the main residence of the caravan user; and
6. Not allow postal deliveries to the caravan or accept post on behalf of the caravan users at the park office; and
7. Ensure that each caravan is to be used for holiday use only and that no caravan is occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence, of the user or occupant; and
8. Adhere to a code of practice as good as or better than that published by the British Homes and Holiday Parks Association.

4. **REPRESENTATIONS**

- 4.1. A single round of consultation has been undertaken, during which letters were sent to neighbouring occupiers. A notice was displayed at the application site and the application was advertised in the local newspaper. Full details of representations are available online.
- 4.2. During the sole round a single letter of representation supporting the proposal was received. Comments of support were raised in relation to the following matters:

Comments	Report reference
Allowing the amendment would result in the temporary retention of a valuable form of housing for vulnerable individuals/families and avoid a situation in which they would be made homeless.	See paragraph 7.8.7

- 4.3. Eastchurch Parish Council strongly objected to the application on the following grounds:

Comments	Report reference
A formal site visit by Members of the Planning Committee is requested.	Officers do not consider necessary in this instance.
Requested that the application be presented to the Planning Committee.	The recommendation is not contrary to the position of the Parish and so this is not the reason for the application being presented to the Planning Committee.
Detailed some of the content of the existing conditions and a commentary on the reasoning for them being imposed.	Noted.
Applications comparable to this have consistently been resisted.	See Section 2 above.
Conflict with Policies ST3, DM3 and DM26.	Regard has been had to the policies of the local plan throughout the below assessment.
Unsustainable location in rural area with limited services, forcing reliance on private transport, contrary to the NPPF (paragraphs 7 to 11)	See Paragraph 7.1.12
Impact on tourism contrary to the NPPF (paragraph 84)	See Paragraphs 7.1.40 to 7.1.43
Impact on the character and beauty of the countryside contrary to the NPPF (paragraph 174)	See paragraphs 7.7.3 to 7.7.7.
Potential for crime and anti-social behaviour contrary to the NPPF (paragraph 130 and 152)	Not addressed in report but not considered that there would be an uplift as a result of the proposed relaxation of the occupancy restrictions.
Conflict with Policies B6, B7, RC7, E1, E6 and E19 of the former local plan.	Regard has been had to the equivalent policies of the current local plan in the below assessment.
Increased pressure on local infrastructure and services including schools, doctors and waste collection.	See Paragraph 7.8.2
Warden Road is already overburdened. Allowing the proposed amendment would exacerbate this issue at a time of year when road conditions can be dangerous to the detriment of highway safety (incl. the provision of access for emergency services).	See Section 7.5.
The conditions that the Applicant seeks to amend were attached to the extant Planning Permission to avoid the very situation the Applicant is proposing to enable; year-round occupation, and permanent residential use. For this reason, similar proposals have correctly been refused in the past.	Noted and assessed throughout.

5. CONSULTATIONS

5.1. There has been one (1) round of consultation for consultees

5.2. **KCC Flood and Water Management** -- No Comments.

5.3. **KCC Ecological Advice Service (KCC EAS)** -- No objection on the condition that the Applicant provides a proportional financial contribution to the SAMMS.

5.4. **SBC Economy & Regeneration:** The Economy and Regeneration team are ordinarily supportive of all tourism related developments in the borough. However, the application to extend the occupation months at the holiday parks in question, would lead to a loss of income generated by visitors to the island in both high and low seasons. It will also reduce the variety of accommodation available for visitors to choose from as many of the caravans will default to being full time residential properties. There is limited accommodation of the same type, on offer elsewhere in the borough and it would therefore be beneficial to maintain the holiday stock available on the Isle of Sheppey.

5.5. **SBC Housing** -- The Housing team has engaged regularly with representatives from Kent Parks, who have provided information indicating that a number of occupants are residing in the holiday parks as their permanent homes. This is in breach of the existing planning consents, which they have acknowledged and have sought to work with the Council to resolve the issue. It remains unclear whether the accommodation on these sites meets the standards required under the Mobile Homes Act, and therefore may not be suitable for permanent residential use.

In response to the ongoing issues, the Council's Homelessness Prevention Team has conducted on-site drop-in surgeries to offer advice and support to residents at risk of homelessness.

Historically, the annual closure of caravan parks across the Isle of Sheppey has led to a notable increase in demand for Housing Options services. In the previous year, 55 households approached the Housing Options team due to caravan park closures. Of these, 12 households were specifically from Kent Parks sites. So far this year, 23 households have approached the service. Of these, 11 households were specifically from Kent Parks sites. It is important to note that this year's figures are likely to rise as we approach the winter period, when park closures typically peak.

Should this level of presentation continue or increase, it would place significant pressure on the Housing Options service to deliver statutory duties, including the provision of advice, assessments, and sourcing suitable accommodation. This would also result in substantial financial implications for the Council, particularly in relation to the cost of temporary accommodation

5.6. **Mid-Kent Environmental Protection** -- No comments.

5.7. **Environment Agency (EA)** -- No Comments.

- 5.8. **Natural England (NE)** -- Providing that the appropriate assessment concludes that the measures can be secured[with sufficient certainty] as planning conditions or obligations by your authority ,and providing that there are no other likely significant effects identified (on this or other protected sites) which require consideration by way of appropriate assessment, Natural England is likely to be satisfied that your appropriate assessments will be able to ascertain with sufficient certainty that there will be no adverse effect on the integrity of the European Site from recreational pressure in view of the site's conservation objectives. In this scenario, Natural England is unlikely to have further comment regarding the Appropriate Assessment, in relation to recreational disturbance.
- 5.9. **Lower Medway Internal Drainage Board (LMIDB)** -- No Comments.
- 5.10. **Kent Police** -- No Comments (Outside of Scope)

6. DEVELOPMENT PLAN POLICIES

Bearing Fruits 2031: The Swale Borough Council Local Plan 2017 (the Local Plan)

ST1 Delivering sustainable development in Swale
 ST2 Development targets for jobs and homes 2014-2031
 ST3 The Swale settlement strategy
 ST4 Meeting the Local Plan development targets
 ST6 The Isle of Sheppey area strategy
 CP1 Building a strong, competitive economy
 CP2 Promoting sustainable development
 CP3 Delivering a wide choice of high quality homes
 CP4 Requiring good design
 CP5 Health and wellbeing
 CP6 Community facilities and services to meet local needs
 CP8 Conserving and enhancing the historic environment
 DM3 The rural economy
 DM4 New holiday parks or extensions to existing parks
 DM5 The occupancy of holiday parks
 DM6 Managing transport demand and impact
 DM7 Vehicle parking
 DM14 General development criteria
 DM19 Sustainable design and construction
 DM21 Water, flooding and drainage
 DM26 Rural Lanes
 DM28 Biodiversity and geological conservation
 DM32 Development involving listed buildings

Supplementary Planning Guidance/Documents -

Landscape Character Assessment and Biodiversity Appraisal (LCA&BA), 2011.
 Parking Standard Supplementary Planning Document, 2020.
 Air Quality and Planning Technical Guidance, 2024.

Strategic Access Management and Monitoring Strategy (SAMMS), 2014

National Planning Policy Framework (the NPPF)
National Planning Practice Guidance (NPPG)
Kent Mineral and Waste Local Plan 2024-39 (KM&WLP), 2025 & the Kent Mineral Sites Plan (KMSP), 2020.

7. ASSESSMENT

The main considerations involved in the assessment of the application are:

- Principle
- Heritage
- Ecology
- Transport and Highways
- Air Quality
- Impact of Additional Activity on Living Conditions and Countryside Tranquillity
- Other Matters

7.1. **Principle**

- 7.1.1. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.
- 7.1.2. The NPPF provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.

Terms of Application

- 7.1.3. The application has sought the variation of conditions 2, 3 and 4 to enable their relaxation for a 2 year period. Depending on the approach that is taken, conditions could be imposed to either make the effect of any permission temporary or the conditions could be varied to set out the limitations that exist for two years and the conditions that would then be applicable thereafter.
- 7.1.4. In the event that the complete relaxation of conditions 2, 3 and 4 for a two year period is not found to be acceptable, consideration should be had to whether alternative conditions could be imposed to make a development acceptable. In this regard, it is noted that paragraph 4.3 of the applicant's Planning Statement sets out that they would be happy to discuss limitations relating to the number of caravans that are able to be occupied, the new and varied occupancy periods and leasing/licensing

arrangements. An assessment will be made in relation to the entire relaxation of the conditions for a two year period and the potential to impose alternative conditions.

Development Plan – Settlement Strategy

- 7.1.5. Policy ST1 states that development proposals will accord with the Local Plan Settlement Strategy. The site is located outside the built-up area boundaries that exist within the Swale Borough.
- 7.1.6. The Settlement Strategy is set out at Policy ST3 and, as far as it is relevant to this application, it states that “At locations in the open countryside, outside the built-up area boundaries shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.”
- 7.1.7. The part of the exception that relates to the NPPF can be considered further below but, regardless of any conclusion that is reached in that respect, for reasons that will be set out below, the proposal would not enhance “the intrinsic value, *landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities*”. Therefore, the proposal is contrary to the Settlement Strategy.
- 7.1.8. Policy CP2 states that “*new development will be located in accordance with Policy ST1 to Policy ST7....which minimise the need to travel for employment and services and facilitate sustainable transport.*” The site is located outside the settlement boundary and does not accord with Policy ST1 and ST3 as set out above. Whilst there is no new built development, the altered usage of the site would be new and, as such, the policy CP2 is considered to be applicable and conflicted with.
- 7.1.9. Policy CP4 states that development should “*make safe connections physically and visually both to and within developments, particularly through using landscape design and open space to retain and create green corridors for pedestrians, cyclists and biodiversity.*” Policy CP2 also states that development should “*achieve alternative access to all services through promoting access to sustainable forms of transport particularly bus, cycling and rail transport and improving interchange between them from the earliest stages of development.*”
- 7.1.10. Policy DM6 requires that “developments demonstrate that opportunities for sustainable transport modes have been taken up.” It also states that “*The location, design and layout of development proposals will demonstrate that priority is given to the needs of pedestrians and cyclists, including the disabled, through the provision of safe routes which minimise cyclist/pedestrian and traffic conflict within the site and which connect to local services and facilities [and that] access to public transport is integrated into site design and layout where appropriate.*”

- 7.1.11. Policy DM14 states that development will *“Achieve safe vehicular access, convenient routes and facilities for pedestrians and cyclists, enhanced public transport facilities and services.”*
- 7.1.12. The site is distant from the nearest bus stops and the site is remote from Eastchurch which is served by limited facilities for residents. From this basis, whilst there is a limited level of access to public transport, those connections are distant and provide a service of limited coverage. Whilst occupiers of the site might cycle, services would be limited and/or distant from the site and, therefore, are unlikely to be regularly cycled to. Therefore, it is considered inevitable that the majority of people at the site will be reliant on private modes of transport. This is true for lawful tourism users of the site and year-round occupiers of the site. However, it is considered that residents would have a different travel pattern and, as such, residential uses should be directed to sites better served by services and facilities capable of meeting their day-to-day needs. Whilst noting the difference between this temporary application and other applications being for the permanent relaxation of the conditions, this finding is consistent with other recent appeal decisions within the vicinity and it is considered that the conflict with the abovementioned policies would arise whether the use is permanent or temporary.

Development Plan – Holiday Parks

- 7.1.13. The site is allocated in the Local Plan Proposals Map as a Holiday Park. Policy DM4 addresses the provision of new holiday parks, the extension of holiday parks and the provision of new or improved facilities within holiday parks. The content of that policy is not considered to be instructive for the assessment of this application. However, the pre-ambles to that policy provides some context for the consideration of applications related to holiday parks, stressing that a core principle of the NPPF is to proactively drive and support sustainable economic development. It goes on to state that *“Holiday parks provide direct employment and their users support shops, pubs, restaurants and visitor attractions. There can also be other social benefits in that they give work in areas where little alternative employment exists. The changing nature and flexibility of the leisure market and the higher aspirations of customers today are leading to leisure providers continually developing new concepts to respond to consumer needs and aspirations.”*
- 7.1.14. Local Plan Policy DM5 addresses the occupancy of holiday parks and reads as follows:

In order to ensure a sustainable pattern of development and to protect the character of the countryside, planning permission will not be granted for the permanent occupancy of caravans and chalets. Where it can be demonstrated that higher quality standards of holiday accommodation can be secured, planning permission will be granted for proposals to extend the occupancy of holiday parks between 1 March and 2 January the following year (a 10 month occupancy), provided that:

1. *The site is not at risk of flooding, unless, exceptionally, applications accompanied by a Flood Risk Assessment (FRA) satisfactorily demonstrating that the proposal would result in no greater risk to life or property and where an appropriate flood evacuation plan would be put in place;*
2. *The amenity and tranquillity of the countryside and residential areas are safeguarded;*
3. *The proposals are in accordance with Policies DM 22 and DM 23 relating to the coast and the coastal change management area; and*
4. *Where located adjacent or in close proximity to the Special Protection Areas (SPA), an assessment has been undertaken to determine the level of disturbance to overwintering birds and identified mitigation measures, where appropriate.*
5. *The extension of occupancy is subject to planning conditions safeguarding the holiday accommodation from being used as sole or main residences, as set out in Appendix 2.*

- 7.1.15. The pre-ambble to the policy highlights the history of most of the holiday parks, noting that 8 month (and eleven days at Christmas and New Year) occupancy restrictions existed in most cases. The supporting text indicates that *“the limited occupancy period was imposed to ensure that these holiday parks were not used as permanent (and sometimes sub-standard) housing (many of which would be in poorly accessible parts of the Borough) and to protect the character of the rural area. Limited occupation also afforded the opportunity to retain a period of tranquillity in rural and other areas. In areas at risk of flooding, permanent occupation over the winter period could also result in risk to life.”*
- 7.1.16. The supporting text highlighted that *“to give more scope and incentive to enable modernisation and upgrading to take place, the Council considers that there will be occasions when a 10 month occupancy period will be acceptable, which will, in turn, deliver tourism benefits and support for the local economy.”* It goes on to state that Policy DM5 sets out the parameters within which applications to extend occupancy of holiday parks to a 10 month period will be permitted before stating that *“Permanent occupation will continue to be resisted.”*

Condition 2 – Occupancy Period.

- 7.1.17. This application does not seek the permanent occupancy of the accommodation at the site as the year round occupancy is proposed for a temporary period of 2 years. From this basis, the effect of the application would not be directly contrary to the first sentence of Policy DM5 as it has been written.
- 7.1.18. However, the application would enable the extension of the occupancy period that is defined in the remainder of the first part of Policy DM5. The policy should be read in the context of the history of the holiday park sites and the earlier iterations of the development plan which imposed an 8 month (plus 11 days at Christmas and New Year in some cases) occupancy limitation. Paragraph 7.1.27 of the Local Plan states that *“to give more scope and incentive to enable modernisation and upgrading to take place, the Council considers that there will be occasions when a 10 month occupancy*

period will be acceptable.” Whilst the Policy allowed for an increased occupancy period up to 10 months, subject to conditions, there is no indication that this would be able to be extended to 12 months in any circumstances, on a temporary or permanent basis.

- 7.1.19. From this basis, the proposed relaxation of the condition to enable year round occupation, albeit only for two years, would be contrary to the objectives of Policy DM5. Having regard to the potential to impose alternative conditions, any occupancy exceeding 10 months would be contrary to the aim of the policy. It is clear from the application submissions that the intention is to enable occupiers to be resident at the site on a year round basis and, therefore, any mid-ground occupancy period would be contrary to the intentions of the applicant.

Conditions 2, 3 and 4 – Main Residence Restriction and Record Keeping.

- 7.1.20. Turning to the criteria that are set out within Policy DM5, it is considered relevant that the assessment of these matters is only applicable in the context of the abovementioned occupancy limitation being complied with. Notwithstanding this, the criteria give a direction as to the key material considerations for this application. The matters addressed by criteria 1 to 4 of Policy DM5 are addressed in the relevant sections below.
- 7.1.21. For reasons that will be set out below, the variation of conditions in effect at the site would cause the use of the site to conflict with Criteria 2. There would be a technical conflict with Criteria 1 as the site is at very low risk of surface water flooding but, for the reasons also set out below, it is considered that no objection should be raised to the application on the grounds of flood risk as no harm would arise. In relation to Criteria 4, there is grounds to object where no mitigation provisions are secured but it is expected that this would be able to be resolved. Again, this will be considered further below.
- 7.1.22. With respect to Criteria 3, the site is outside the coastal erosion zone and the Coastal Change Management area. Therefore, no objection is raised on those grounds.
- 7.1.23. In respect of Criteria 5, the planning conditions set out at Appendix 2 of the Local Plan are fundamentally the same as appear within existing conditions 2, 3 and 4 that currently apply to the permitted use at the site, as detailed above. The application seeks to vary these conditions. By varying these conditions, the development would no longer accord with Policy DM5 and the limitations that are fundamental to holiday parks to benefit from 10 month occupancy periods. Consequently, an application to use the site without complying with those conditions is in conflict with Policy DM5.
- 7.1.24. Amongst other relaxations, the primary effect of this would be to enable the accommodation at the site to be used as a persons primary residence. This is corroborated by the Applicant's Planning Statement which states that many of the existing occupants do not have an alternative permanent address and would be made homeless if the application site was made uninhabitable during the two-month closed

season. This means that these caravans are the sole residence for these occupants and the relaxation of the subject conditions and year-round occupation of these sole residences would constitute their operation, for a two-year period, as dwellings rather than as tourist accommodation. This is entirely contrary to the designation of the site within a holiday park and the associated policies that are discussed above.

Temporary Effect of Variation

- 7.1.25. The application seeks the relaxation of conditions for a temporary period and, as such, the application is considered to be seeking what is tantamount to a temporary planning permission, which is enabled by Section 72 of the Act. Planning Practice Guidance states that *“Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period.”*
- 7.1.26. The application is not being advanced as a ‘trial run.’ The case of the applicant is that planning circumstances might change at the end of the proposed two year period as they are seeking to advance proposals to develop the site. This is evidenced by virtue of a Screening Opinion (25/504264/ENVSCR) which has been sought for the development of this site, along with other land that is within the applicant’s control and is referenced in the planning history section above. This has been referred to as a “meanwhile use” by the applicant which is described in the Planning Practice Guidance as a temporary use of vacant land or buildings prior to any longer term proposals coming forward. The site is not vacant and so this is not directly relevant. However, whichever element of the PPG is drawn from, it is the case of the applicant that the proposal should be considered as a temporary situation until a permanent re-development of the site is brought forward.
- 7.1.27. At this stage, there can be no guarantee that the re-development of the site in the manner described would be granted planning permission. Whereas a ‘meanwhile use’ might be beneficial by bringing activity to a site that is vacant, that benefit would not arise here as, if not approved, the site would retain its lawful use and caravans would continue to be kept at the site. Conversely, putting the site to use outside the period that is defined by conditions would actively derive harm as a result of the impact on tranquillity that will be considered further below. From this basis, it is considered that negligible or very limited weight should be given to the suggestion that an alternative development might replace the existing or amended situation in the future and that no benefit would arise from the ‘meanwhile use’ of the site that is suggested by the applicant.

Number of Caravans Affected

- 7.1.28. The applicant’s submissions have addressed this application along with the other adjacent sites that are within their control. As such, site specific details are difficult to ascertain. However, it is indicated at paragraph 3.5 of the applicant’s submissions that there is a capacity of approximately 1197 units at the overall land holding and at

least 200 of them have been occupied in breach of the abovementioned conditions. It is understood that the sites within the applicant's control are not the only holiday parks where a breach of condition has taken place.

- 7.1.29. Should this and the other concurrent applications be allowed in the broadest of terms, all of the units would be able to be occupied throughout the prescribed period. This would far exceed any need to accommodate a number of the occupiers of the 200 or so caravans that have been indicated to have been occupied in breach of the restrictions previously. To allow the relaxation of the conditions for all of the caravans would not only address the existing breach that has occurred but potentially give rise to a far increased level of occupancy that would present greater issues at the end of the temporary period than would otherwise be the case. Unless precision was included in relation to the number of caravans occupied, the site could attract occupiers from other sites. That might be of benefit to enabling other sites to comply with their conditions, but it could increase the number of residents at the applicant's holding who, in 2 years time, might have an even greater expectation of being allowed to stay at the site year-round.
- 7.1.30. It is noted within the applicant's submissions that they would be willing to discuss conditions, including a condition that could restrict the number of caravans that can be occupied. Such a discussion has not occurred. However, if minded to approve, it would be necessary to discuss the number of caravans that can be occupied on this site and attempt to imbed that into a condition that meets the applicable tests. Such a condition could also attempt to secure a lower number in the second year to give the Council comfort that the applicant is working towards reducing the number of persons that occupy the site in breach of the planning conditions.
- 7.1.31. However, enforcing such a condition would be riddled with difficulties, particularly on a caravan site where (notwithstanding the comments of the applicant that many of the caravans would not be able to be moved without being damaged) should be capable of being moved. Whereas a blanket restriction on occupation is enforceable, identifying which caravans are occupied and which are not, would be inherently difficult if not virtually impossible. For example, if a limit was reached, how would a person attempting to enforce that limit know which caravan should be enforced against. A plan would be required to specifically identify which caravans would be occupied but no such plan has been submitted and there is no current way available to be able to identify specific caravans.

Housing Supply

- 7.1.32. Swale Borough Council cannot demonstrate a five year housing land supply. Therefore, where a proposal relates to the provision of housing, the approach set out at paragraph 11d) of the NPPF is applicable.
- 7.1.33. Setting aside the conflict with the development plan, caravans in C3 use are able to count towards Housing Supply, and the use of the site as housing could count towards the supply of housing within the Borough. Depending on the approach taken to the

number of caravans that the relaxation would apply to, this could be any number up to 1,197 units across the applicant's overall holding, of which 125 units are at this site. However, this 'supply' would only exist for 2 years and, as it would have to be discounted within the same assessment period, such temporary accommodation is not counted in the Council's 5 year housing land supply.

- 7.1.34. It is considered that a temporary housing supply boost can only be given limited weight as a planning benefit. It is not effectively addressing any housing shortfall as that shortfall would return in 2 years and it is not considered that caravan accommodation, which the applicant recognises is in poor condition, is a sustainable solution to addressing housing needs. It is recognised that a need is derived from the historic breaches of the conditions at the site and that the NPPF indicates that a sufficient amount and variety of land should come forward for housing, where it is needed and that the needs of groups with specific housing requirements are addressed.
- 7.1.35. The applicant identifies that the site and the wider land holding has been used to accommodate people on a year-round basis. This has been in breach of the abovementioned conditions and could be liable to enforcement action. This has created a situation where year-round occupiers are present and reliant on the accommodation. To refuse this application would result in it continuing to be the case that year round occupation would be in conflict with the abovementioned conditions and a breach of planning control, with harms that are identified elsewhere in this report. It is therefore considered that the future 'need' for housing that has been generated by the past breaching of planning conditions at the site needs to be weighed against the harms and conflict with national and local planning policies.
- 7.1.36. The applicant has indicated that occupiers would be made to leave the site from January 2026. Some of those occupiers might have no alternative accommodation available and, as such, could present themselves to the Council as homeless. The needs of the local population should be a material consideration and will be considered. The duty on the Council to accommodate any persons that are caused to be homeless could create considerable difficulties for the Council and it is a key component of the applicant's case that allowing the application would avoid implications for other services of the Council, primarily the Council's Housing Team who would potentially see a sharp increase in demand, with the cost and labour implications.
- 7.1.37. In this regard, it is considered relevant that the Council is not hereby deciding whether or not to serve a Planning Enforcement Notice or a Breach of Condition Notice at the site. The decision of the applicant to comply with planning conditions if this application is refused, which should be a fundamental requirement, would be a decision for the applicant. The problem that may or is likely to exist around persons being homeless is a consequence of the unlawful occupation of the site that is understood to have been enabled by the applicant's predecessors. Accommodating people that might not have alternative accommodation can be viewed as a benefit of granting planning permission. However, this could also be achieved by not enforcing the conditions or by the chosen form of enforcement.

- 7.1.38. A factor that is considered to be important to this assessment is the quality of the accommodation at the site. The pre-ambles to Policies DM4 and DM5 identify that some of the Borough's accommodation of this type is of poor quality and in need of improvement. Consistent with this, the applicant's own Planning Statement sets out that some of the accommodation at the site is of poor quality, with their submission stating that the caravans are old and liable to break if moved. In the absence of any form of detailed assessment of the quality of the accommodation, it is considered appropriate to give weight to a visual inspection of the site which suggests that much of the accommodation is not likely to accord to modern standards. Whilst it is expected that occupiers will value this accommodation and it is noted that reference has been made to the existence of a community spirit at the site and the holding in general, it is considered that the reliance on living accommodation that might not accord with modern standards should not be considered to be sustainable. In this regard and giving consideration to the potential to use a condition that limits the number of caravans, there is no evidence available to suggest whether those residents in the greatest need would have access to the best-kept caravans or those at the other end of the quality and maintenance range.
- 7.1.39. The proposal being a 'meanwhile use' is considered to weigh against the suggestion that the proposal would address a homelessness situation from occurring. It is acknowledged that the temporary availability of accommodation could provide a short-term solution to the existing hidden homelessness. However, it is integral to this that the applicant intends to bring the current situation to an end and re-develop the site. This would not address the situation in the medium term and, whilst occupiers would have a 2 year opportunity to find alternative accommodation, they would equally have 2 years to become more imbedded at the site and, potentially, develop a hope or expectation that a further year round occupancy will be provided in the future. There can be no certainty that the future proposals at the site would (or would not) be available to the current occupiers at the site and therefore, even noting that the temporary permission would afford those residents additional time to find alternative accommodation, it is likely that they would have to leave the site in due course in any case. Whilst a relocation management plan to guide occupiers to suitable accommodation prior to the end of the temporary period might have been able to be explored and been the subject of a condition, it is considered that there could be little comfort or certainty that such a plan would be effective and, in the circumstances that have been detailed by the applicant, it is not clear how a phased reduction of occupiers at the site would be able to be achieved. The proposal would be as likely to postpone any problems rather than address them.

Tourism and Economic Development Considerations.

- 7.1.40. Policy CP1 of the Local Plan seeks to safeguard or enhance Swale's 'Principal Tourism Assets' and to consolidate or widen the tourism potential of the borough. Holiday parks are listed under the borough's 'Principal Tourism Assets' and the supporting text sets out that these should be protected from inappropriate development. Policy ST6 seeks to support the existing tourism offer on the Isle of

Sheppey and the supporting text to this policy emphasises the importance of tourism to the economy of the Isle of Sheppey. Policy DM3 promotes rural tourism and makes clear that residential development should not be permitted at the expense of rural employment. The supporting text to policy DM4 states that holiday parks provide direct employment and support shops, pubs, restaurants and visitor attractions.

- 7.1.41. Whilst the comments of the applicant relating to the manner in which the site has not operated as a conventional holiday destination are noted, to formally change the use of the site (even for a temporary period) would compound the loss of holiday accommodation and reduce the tourism offer that exists and is of significance to the local economy. This would be contrary to the above policies that seek to safeguard and enhance tourism and to prevent the use of holiday parks as a person's main residence.
- 7.1.42. No detailed information has been provided to demonstrate why the accommodation is not suitable for holiday use and there is no evidence that demonstrates insurmountable difficulties to use the units as holiday accommodation. The residential use of the site would undermine the clear strategies in the adopted local plan to promote and increase the tourism offer in the borough and on the Isle of Sheppey, where tourism plays a vital role in the local economy. In this regard the change of use is contrary to policies CP1, ST6, DM3, DM4 and DM5 of the Local Plan.
- 7.1.43. It is considered that these policies are consistent with the NPPF as paragraph 88 of that document states that planning decisions should enable “...*the sustainable growth and expansion of all types of business in rural areas and sustainable rural tourism and leisure developments which respect the character of the countryside*”.

Other Conditions

- 7.1.44. As set out above, regard has to be had to the use of other conditions. In this case, it is considered that any period of occupancy beyond 10 months would conflict with policy DM5, albeit potentially to a lesser degree.
- 7.1.45. Similarly, whilst a limitation on the number of units able to be occupied would reduce the scale of conflict, any occupancy contrary to the current conditions would inherently be in conflict with the development plan.
- 7.1.46. There are other materials considerations to consider in relation to this case, which will be addressed below. However, it must be a crucial consideration that the variation of condition, as sought or any comparable version of that amendment, would cause the development at the site to be contrary to the development plan and, at least in part, the NPPF.

Other Matters Related to Principle

- 7.1.47. As set out above, it is noted that the occupancy restriction conditions are likely to have been breached at the site. However, no case has been made by the applicant that

these breaches have occurred for a sufficient time for any breaches to have become lawful and no Certificate of Lawfulness has been applied for to this effect. Consequently, it is not known that there is a fallback position to afford any weight in the assessment of this application.

7.1.48. Summary in Relation to the Principle of the Variation of Conditions

For the reasons set out above, the relaxation of the conditions that currently exist would be contrary to the development plan. The harms arising from this will be considered below and weighed against the benefits of supporting the applications within a planning balance assessment.

7.2. **Heritage**

- 7.2.1. Any planning application for development which will affect a listed building or its setting must be assessed in accordance with the requirements of section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires a local planning authority to have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest which it possesses.
- 7.2.2. The NPPF states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan.
- 7.2.3. There are heritage assets within the general locality near to the site but these would not be directly impacted upon by the proposal, this includes the Grade II listed buildings at Connetts Farm, Trouts Farm and Palm Trees Holiday Park. Any impacts on the setting would be limited to that caused by additional activity in the area arising from the additional usage of the site. In this instance, and having had regard to the Council's obligations pursuant to the Planning (Listed Building and Conservation Areas Act) 1990, it is considered that the additional activity would not be harmful to the aural setting of those heritage assets and, therefore, there would be no conflict with Policy DM32 of the Local Plan or the heritage section of the NPPF. Due to the distance between the site and the Grade II* listed Shurland Hall and the arrangement of that site relative to the highways that would be affected by the additional use, the proposed increased activity is not considered to impact on the setting of that listed building.

7.3. **Ecology**

- 7.3.1. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly

known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by Policies CP7 and DM28 of the Local Plan, which relates to the protection of sites of international conservation importance including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar Sites.

Protected habitats

- 7.3.2. Section 40 of the Natural Environment and Rural Communities Act (2006) states *“For the purposes of this section “the general biodiversity objective” is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England”* and *“A public authority which has any functions exercisable in relation to England must from time to time consider what action the authority can properly take, consistently with the proper exercise of its functions, to further the general biodiversity objective.”* Furthermore, the NPPF states that ‘the planning system should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity.’ The NPPF states that ‘if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.’
- 7.3.3. In terms of the Local Plan, Policy DM28 sets out that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.
- 7.3.4. The site is in proximity to the Swale Special Protection Area (SPA) and Ramsar site and the Medway Estuary and Marshes SPA and Ramsar site and Outer Thames Estuary SPA. The sites are designated because they provide important habitats for wintering, migratory and breeding waders, seabirds, waterfowl and other birds (the qualifying features). Their conservation objectives are to maintain or restore their integrity by maintaining or restoring the extent, distribution, structure, function and supporting processes of the habitats of the qualifying features, the population of each of the qualifying features, and the distribution of the qualifying features within the site.
- 7.3.5. Increased visits and recreational use by occupiers within proximity to the habitats sites are likely to disturb the qualifying features. This can affect their ability to feed, rest, and nesting, constituting Likely Significant Effects upon them. Though the magnitude of Likely Significant Effects would be dependent upon occupancy rates, this proposal would result in greater occupation of the site for a temporary period, within a distance of habitats sites where it is identified there would likely be increased visits from occupiers, with Likely Significant Effects, upon the qualifying features. A strategic package of measures to mitigate the effects of recreational pressure and disturbance are set out in the Thames, Medway and Swale Strategic Access Management and Monitoring Strategy. This is based upon a costed tariff, to fund mitigation measures for each unit or scheme. To effectively mitigate the Likely Significant Effects, the contributions must be secured, and mitigation undertaken prior to occupation.

- 7.3.6. In response to this application Natural England have confirmed that the proposal would impact upon the integrity of the habitats sites and qualifying features, if un-mitigated. This is also supported by the KCC Ecologist. Any increase in the occupation period, even on a temporary basis would mean there would be some effects and, as such, proportionate mitigation needs to be secured.
- 7.3.7. As with any planning application, the request for financial contributions needs to be scrutinised in accordance with Regulation 122 of the Community Infrastructure Regulations 2010 (which were amended in 2014). These stipulate that an obligation can only be a reason for granting planning permission if it is necessary, related to the development and reasonably related in scale and kind. Whilst it is unusual to seek planning obligations from a temporary planning permission, for the reasons given above it is considered that it would meet all of the applicable tests to do so in this case. To make this proportionate, the amount of contribution would need to be reflective of the period of increased occupation and the two year duration of the temporarily increased population. Moreover, the conventional contribution needs to be reduced as it relates to two months of the relevant 'wintering' period. Based on the current SAMMs rate, this would amount to £2.73 per unit. For the reasons set out above, the overall sum could fluctuate if any permission granted relates to all of the caravans at the application site or a reduced number.
- 7.3.8. At the time of preparing this report, the necessary mitigation has not been secured and, as such, there is a conflict arising with the abovementioned legislation and policies. It is, however, expected that this would be resolvable and it is clear from communications received that the applicant would be willing to address this matter. The absence or securing of mitigation has a material effect on planning balance considerations and, as such, both scenarios will be considered fully below.

On-Site Protected Species

- 7.3.9. No physical works are required and there is no basis to assume that the proposed variation of the occupancy period and other applicable restrictions would have any impact on protected species at the site.

Biodiversity Net Gain (BNG)

- 7.3.10. This application was submitted after the commencement of Mandatory Biodiversity Net Gain. However, the applicable guidance is clear that this does not apply to section 73 permissions where the original permission which the section 73 relates to was either granted before 12 February 2024 or the application for the original permission was made before 12 February 2024. That is the case here and, as such, there is no BNG requirement arising from this application.

7.4. Transport and Highways

- 7.4.1. Local Plan Policies CP2 and DM6 promote sustainable transport through utilising good design principles. They set out that where highway capacity is exceeded and/ or safety

standards are compromised proposals will need to mitigate harm. Policy DM7 of the Local Plan requires parking provision to be in accordance with the Council's Parking SPD. The site is also reliant on the use of a designated rural lane and, as such, policy DM26 is applicable.

- 7.4.2. The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. A core principle of the NPPF is that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.”

- 7.4.3. The proposal would not increase the amount of accommodation at the site and there would be no alterations to the access to the site. Whilst the duration of the use would extend and the amount of annual vehicle movements can be expected to increase as a result, there is no reason to conclude that the extended occupancy periods would be used at a greater intensity than the currently authorised periods. Noting that the traffic associated with the use can already occur for 10 months of the year and presumably be more intensive in the summer period, it is not considered that the additional traffic arising from the 2 month winter period would have a severe impact on traffic that would conflict with the above extract of the NPPF. Moreover, there would be no requirement to provide additional parking. The variation of the condition would not, therefore, be in conflict with the abovementioned policies.

- 7.4.4. The effect of additional traffic on living conditions of nearby residents will be considered below.

7.5. **Air Quality**

- 7.5.1. The importance of improving air quality in areas of the borough has become increasingly apparent over recent years. Legislation has been introduced at a European level and a national level in the past decade with the aim of protecting human health and the environment by avoiding, reducing or preventing harmful concentrations of air pollution.

- 7.5.2. Policy DM6 of the Local Plan sets out that development proposals will integrate air quality management and environmental quality into the location and design of, and access to development and in so doing, demonstrate that proposals do not worsen air quality to an unacceptable degree.

- 7.5.3. The NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing new/existing development from contributing to or being put at unacceptable risk from, or being adversely affected by, inter alia, unacceptable levels of air pollution. It also requires the effects of air pollution

and the potential sensitivity of the area to its effects to be taken into account in planning decisions.

- 7.5.4. The Planning Practice Guidance on Air Quality (Paragraph: 005 Reference ID: 32-005-20191101) states that:

“whether air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to have an adverse effect on air quality in areas where it is already known to be poor, particularly if it could affect the implementation of air quality strategies and action plans and/or breach legal obligations (including those relating to the conservation of habitats and species). Air quality may also be a material consideration if the proposed development would be particularly sensitive to poor air quality in its vicinity.

- 7.5.5. Given that the application is a major application (being on land that is more than a hectare), an Emissions Mitigation Assessment should have been submitted. In this instance, noting that the application relates to the variation of a condition to enable what is effectively 4 months of additional occupation (two months during each of two years), with no additional built development occurring, it is considered that any air quality impact would be limited. The site is not within or near an Air Quality Management Area and there is no reason to conclude that the proposal would have any more than a negligible impact on such an area through increased traffic occurring within those 4 months. From this basis, whilst there is a technical conflict with the Council’s Air Quality and Planning - Technical Guidance and, in turn, Policy DM6, it is considered that there would not be harm to air quality arising from this conflict that would represent a sound basis to object to the temporary effect of the development. In this respect it is noteworthy that the Council’s Environmental Health Officer has not raised any objection on this ground to any of the group of similar applications that are currently pending determination.

7.6. **Flood Risk, Drainage and Surface Water**

- 7.6.1. Policy DM21 of the Local Plan and the NPPF requires that Local Planning Authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed. Moreover, Policy DM5 indicates that flood risk can be a material consideration in assessing proposals to extend the occupancy period of holiday parks.
- 7.6.2. The site is located within Flood Zone 1 in terms of fluvial and tidal flooding. In terms of surface water flooding, the Environment Agency Flood Risk map shows very minor elements of the site as being liable to surface water flooding. In this instance, noting the nature of the application, it is considered that the application passes the sequential test as it relates to the variation of an existing permission and therefore, by default, the application could only have been submitted in respect of the land at this site. Whilst no Flood Risk Assessment has been submitted, the small pockets of surface water flooding that are likely to occur would be of such negligible scale that it is not considered that the development would be unsafe if occupied through the additional months, even noting that rainfall and ground saturation is likely to be highest at this

time. The absence of a flood risk assessment is a technical conflict with the abovementioned policies and the NPPF but, taking an approach that is similar to that taken by the Inspector in appeal APP/V2255/W/24/3350524 (Ham Road, Faversham), it is considered that there would be no real-world harm arising from the proposals and no increased risk of flooding on or off site as there would be no physical development proposed.

7.7. Impact of Additional Activity on Living Conditions and Countryside Tranquillity

Existing residents

- 7.7.1. Policy DM14 of the Local Plan and the NPPF requires that new development has sufficient regard for the living conditions of neighbouring occupiers. Of specific relevance to holiday parks and their occupancy period, Policy DM5 indicates that the amenity and tranquillity of residential areas is to be safeguarded. Tranquillity, to local residents and the countryside locality in general will be considered further below. However, in relation to other matters such as light, privacy, outlook and other such direct impact impacts, no additional impacts would be caused and so no objection is raised.

Site Occupiers

- 7.7.2. The accommodation at the site would not be altered by the proposed variation of condition. Regard is had to the current users of the site elsewhere in this report but, in terms of light, privacy, outlook, and other such direct impacts, it is not considered that there would be a worsening of conditions that would represent a ground to object to the application.

Countryside Tranquillity

- 7.7.3. In addition to the extract of Policy DM5 that is referenced above, the pre-amble to the policy advises that one of the purposes of the limitation on the occupancy period is to retain a period of tranquillity in rural and other areas. In the recent appeal with respect to a similar proposal at Vanity Farm Camp (APP/V2255/W/24/3356382), the Inspector found that the policy is consistent with National Planning Policy Framework objectives in respect of protecting local character, seeking to strike a balance with other competing policy objectives such as in respect of economic development and tourism. This approach is also consistent with Policy ST3 which identifies that within the open countryside, development will not be permitted unless it contributes to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities. The current restriction, in part, creates a period of tranquillity that accords with this policy aim.

- 7.7.4. Whether the extended occupancy period is afforded to all of the units at the site or a smaller number to reflect the number of residents that have previously occupied the site in breach of conditions, the extended occupancy period would undermine the period of tranquillity through additional activity. Traffic, congestion, noise and tranquillity all vary according to the season and the restriction on occupancy is intended to provide local residents with a quiet period to appreciate the rural surroundings. The occupation of the application site throughout the year would bring about activity, noise and traffic in winter months that would be harmful to rural character and would clearly conflict with Policy DM5 of the Local Plan.
- 7.7.5. It is considered relevant to note that this matter has previously been tested at one of the site's within the applicant's control, Brookside Park. At appeal APP/V2255/W/21/327474, the Inspector found that *"The conditions securing the closure of the appeal site during the winter months ensure that permanent residents locally are able to experience the tranquillity of the area when it is free from visitors. Their proposed removal would mean that the site would remain open during the currently closed winter months, harming this existing character by removing the respite and tranquillity during this period. In addition, if permanent residential use were allowed of the caravans, then this would make it likely that the character of the site would change when in occupation during the summer months."* That Inspector went on to identify longer term impacts which are not relevant to this application. The Council has also previously reached a similar view with respect to an application at the nearby Beverley Camp and an Inspector reached a similar view in relation to the appeal at Vanity Farm Camp, which is within the applicant's wider holding. It is noted that the impact would be temporary and, therefore, different to that which was experienced in those cases. However, there would still be an impact for that period that is contrary to the aims of the development plan.
- 7.7.6. For this reason, the impact on the character of the area arising from the disturbance and the associated effect on tranquillity, would be contrary to policies ST1, ST3 and DM5 of the Local Plan and the NPPF.
- 7.8. **Other matters**
- 7.8.1. No additional built form or caravans are proposed as part of the proposed variation of condition and, as such, there would be no additional structures or items at the site. From this basis, there would not be any additional visual impact or any additional effects on open space demand or provision, trees, archaeology, erosion or contamination.
- 7.8.2. Given that the effect of the variation of the condition would be temporary, for a two year period, and only effectively have an effect for a total of 4 months across that time, it is not considered that it would be reasonable to secure any other planning obligations or community infrastructure provisions, other than that which is addressed elsewhere in this report which is required to directly mitigate an effect arising from the proposed

variation of condition. For similar reasons, it is not considered that it would be reasonable to require the site to achieve renewable energy generation or energy/water efficiency improvements and, therefore, no objection is raised by Officers on the grounds that the proposed variation would not address the requirements of Policy DM19.

- 7.8.3. The applicant acknowledges and it is known that there have been periods where the conditions referred to above, potentially at this site as well as other holiday parks with comparable conditions, have been breached. This has continued to a point where it is known that some users of the holiday parks in this area have used them as the main residence. Within their Planning Statement, the applicant indicates that this could amount to 400 or more people occupying 200 or more caravans at the sites that are in their control. This application site is likely to account for a portion of that unauthorised occupation. Any under-enforcement that has occurred is not considered to be reason, in itself, to conclude that the conditions no longer serve a purpose or should be set aside for a temporary period. Enforcement is discretionary and, if any breaches are brought to the Council's attention, in accordance with the Planning Enforcement Strategy, the Council would have choices to make around whether to enforce and, if applicable, how to enforce. The conditions that exist are considered to meet the relevant tests of enforceability and reasonableness and, as such, these are not grounds to vary the conditions.
- 7.8.4. The applicant has indicated that options have been explored relating to limiting the breach by moving all year-round users of the wider holding into a single part of the site. However, this has been deemed to be impractical for several reasons.

Interim Policy Statement

- 7.8.5. The Full Council adopted an interim planning policy on park homes on 17 June 2020 as 'a material consideration that will hold some weight in the consideration of applications for park home proposals'. However, the interim policy is considered to hold limited weight given that it was not progressed via the development plan process, and has not been subject to scrutiny through consultation and examination. This approach has been supported at subsequent appeals including those at Plough Leisure Caravan Park, Brookfield Park, Golden Leas Holiday Park and Estuary View Caravan Park
- 7.8.6. The interim policy sets out a list of criteria for compliance. This includes the requirement that the site is in a sustainable location with access to services and facilities, and other criteria which, in some cases the proposals would comply with but in others, it has not been demonstrated that the proposal would comply, the accommodation meeting identified standards for example. It is set out elsewhere why these specific matters are a concern in relation to this application. Therefore, given the limited weight that should be attached to this interim policy, together with the conflict in any case with its criteria, it is still considered that the application is unacceptable.

Human Rights Act and Public Sector Equality Duty (Equality Act 2010)

- 7.8.7. The applicant states at several locations within their Planning Statement that some of the users of the site have health conditions and it is noted that some will consider the caravans to be their homes. In terms of personal circumstances of the site users, the applicant has not provided any specific details. One representation has been received which sets out the specific circumstances behind one caravan being occupied. Due regard has been had to that submission. The Council has a duty to have due regard to the Public Sector Equality Duty as detailed within the Equality Act 2010 and the Human Rights Act 1998.
- 7.8.8. In line with the Human Rights Act 1998, it is unlawful for a public authority to act in a way which is incompatible with a Convention right, as per the European Convention on Human Rights. The human rights impacts that are most relevant to planning are Article 1 of the First Protocol (Protection of property), Article 8 (Right to respect for private and family life) and Article 14 (Prohibition of discrimination) of the Convention.
- 7.8.9. Where the peaceful enjoyment of someone's home and/or their private life is adversely affected, their Article 8 and/or Article 1 of the First Protocol rights may be engaged. The loss of other forms of property (e.g. business premises) may engage rights under Article 1 of the First Protocol. These rights are both what are known as 'qualified rights', that is, they are not absolute rights but involve some form of balancing exercise between the rights of the state to take various steps and the rights of the individual or other affected body/organisation.
- 7.8.10. In the case of Article 8 rights, the interference must be in accordance with law and be considered necessary in the interests of national security, public safety or the economic well-being of the country, for the prevention of crime/disorder, for the protection of health/morals or for the protection of the rights and freedoms of others
- 7.8.11. In the case of *RLT Built Environment Ltd v Cornwall Council* (a judicial review from 2016), the Court drew out a number of points concerning how to approach the loss of a home in the context of the planning process. The points set out by the Court were as follows:

I. Article 8 does not give a right to a home, or to a home in any particular place.

II. However, where someone has a home in a particular dwelling, it may interfere with the article 8 rights of him and/or his family to require him/them to move.

III. Whilst those rights demand "respect", they are of course not guaranteed. In this context, as much as any other, the public interest and/or the rights and interests of others may justify interference with an individual's article 8 rights.

IV. Where article 8 rights are in play in a planning control context, they are a material consideration.

- 7.8.12. Any interference in such rights caused by the planning decision has to be balanced with and against all other material considerations, the issue of justification for interference with Article 8 rights effectively being dealt with by way of such a fair balance analysis.

That balancing exercise is one of planning judgment.

Article 8 rights are, of course, important: but it is not to be assumed that, in an area of social policy such as planning, they will often outweigh the importance of having coherent control over town and country planning, important not only in the public interest but also to protect the rights and freedoms of other individuals”.

- 7.8.13. In terms of Article 1 of the First Part, this provides as follows:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No-one shall be deprived of his possessions except in the public interest and subject to conditions provided for by law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

- 7.8.14. There are three key rules. The first is the principle of peaceful enjoyment of property. The second covers the deprivation of possessions and subjects it to certain conditions. The third recognises that that property can be controlled in the general interest.

- 7.8.15. Claims under any of the three rules need to be examined under four headings:

- I. Whether there was an interference with the peaceful enjoyment of “possessions”;*
- II. Whether the interference was “in the general interest”;*
- III. Whether the interference was “provided for by law”;*
- IV. Proportionality of the interference.*

- 7.8.16. In terms of assessing the proportionality of the interference, domestic case-law (Thomas v Bridgend County Borough Council in the Court of Appeal [2011], applying the European case of Bugajny), has summarised the approach as follows:

“The cases show that the issue of proportionality can be expanded into the following question:

“whether the interference with the applicants' right to peaceful enjoyment of their possessions struck the requisite fair balance between the demands of the general interest of the public and the requirements of the protection of the individual's fundamental rights, or whether it imposed a disproportionate and excessive burden on them.” (Bugajny [...] para 67).”

- 7.8.17. Article 14 of the Convention deals with the requirement for Convention freedoms to be available to all on a non-discriminatory basis. Article 14 is not a free-standing right in the same way as the other Articles that are mentioned above.
- 7.8.18. In line with the Public Sector Equality Duty ('PSED') the Council must have due regard to the need to eliminate discrimination and other forms of less favourable treatment such as harassment and victimisation, and to advance equality of opportunity and foster good relations as between persons who share a protected characteristic and persons who do not share it. The PSED is set out in section 149 of the Equality Act 2010. A protected characteristic for these purposes is age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. Advancing equality will amongst other measures remove or minimise disadvantages suffered by people due to their protected characteristic and take steps to meet the needs of people from protected groups where these are different from the needs of other people.
- 7.8.19. In planning terms, the potential impacts of a proposal on an individual or on groups of individuals should be addressed by the decision-maker as a material consideration. In balancing this against other material considerations, the decision-maker should also ensure that they give due weight to what is required by their statutory duties, including the requirements of the PSED.
- 7.8.20. If planning permission were refused, then occupation of the units at the site would be restricted to the existing 10 month period that is defined by the permission and in alignment with development plan policy. The occupiers would be required to vacate their units for most of January and all of February each year and would only be permitted to use the units for holiday/recreational use.
- 7.8.21. In terms of Article 8 rights (that is, the right to respect for the home and private life), the right is engaged by virtue of the continued inability to use the homes on the park for most of January and February in each of the two years. If the conditions are correctly followed, the occupiers will be required to find alternative accommodation. The question is whether the interference with the rights of affected individuals can be considered proportionate and necessary and so able to be justified under the second limb of Article 8. This involves weighing the interference against other material considerations in order to arrive at a fair balance between the interests of the individual and the interests of the community as a whole.
- 7.8.22. Development plan policy does not support year-round occupation of the Borough's holiday parks. Condition 2 of the effective planning permission aligns with this and the conditions that are in effect also require the caravans to be used for holiday and recreational use only, preventing the caravans being occupied as a sole or main residence. The occupants of the site would be required to move out of their park homes for at least two months of each year and would not be able to use the homes as a sole or main residence. Officers acknowledge that this could be disruptive or highly disruptive for those affected

- 7.8.23. Some groups are likely to be more sensitive than others to displacement. The proportion of the occupiers of the site that might consider themselves to fall within these groups has not been made clear but, based on the applicant's submissions, including but not limited to the incident record that has been provided at Appendix 5 of the Applicant's Statement, it is considered appropriate to proceed on the basis that this would affect some persons with protected characteristics.
- 7.8.24. Taking into account the nature of the impact on the existing occupiers, officers consider the benefits of resisting unplanned residential development in an unsustainable location and protecting the rural character of this part of Sheppey, which is in the public interest, would outweigh any interference with the rights of the individual under Article 8.
- 7.8.25. As regards Article 1 of the First Protocol rights in relation to residential occupiers, officers have proceeded for the purposes of assessing this application on the basis that this right is engaged by the temporary displacement from the caravans on the site each year and the restriction on occupation of the caravans as a sole or main residence. That interference can be regarded as being in the general interest, with the operation of the planning system being a legitimate interest of the state
- 7.8.26. Refusing a planning application has different implications to taking enforcement action. Whilst a refused planning application does not resolve a situation or provide comfort, neither does it, in itself, cause or require the cessation of the unauthorised use. In this case the granting of planning permission would provide certainty for residents for a 2-year period, but it would not be until positive action to require the removal of residents takes place that the Council would be responsible for making persons homeless. There would be options open to the Council in relation to enforcement. It is considered that the proportionality of refusing a planning application as opposed to taking enforcement action has to be a consideration in this case, particularly in light of the limited period of respite that would be afforded to occupiers. In this respect, the implication of the Human Rights Act is considered to be different to an application relating to the permanent use of a site or a decision whether to take enforcement action.
- 7.8.27. In officers' assessment, taking account of the nature of the impact on residential occupiers, the proposed mitigation measures and the public benefits of the scheme, a fair balance is arrived at between the protection of the rights of affected individuals and the interests of the wider community and a disproportionate or excessive burden would not be imposed.

7.9. Planning Balance – Benefits and Harm

- 7.9.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.

7.9.2. The amended restrictions would enable harm to tranquillity. The proposal would also be contrary to the authorised use and allocation of the site as a holiday park, thereby undermining its intended use as a driver of tourism and the associated economic activity that derives from tourism, which is important to the local economy. For these reasons and due to the site being located in the countryside, the proposal is contrary to the development plan Settlement Strategy. Therefore, the application conflicts with policies ST1, ST3, ST6, CP1, CP2, DM3, DM4 and DM5 of the Local Plan. Moreover, whilst it would be resolvable, the proposal fails to mitigate its impact on designated habitat sites, which conflicts with policy ST1, CP7, DM14 and DM28 of the Local Plan. Therefore, while no objection is raised on the basis of the application of other policies, the development plan as a whole indicates that planning permission should be refused.

7.9.3. The NPPF is a material consideration and as the Council are unable to demonstrate a 5-year supply of housing land, paragraph 11.d of the NPPF is engaged. This states the following:

“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.”

7.9.4. In this case, as per part (i) and as a result of the impact on designated habitats not being mitigated, the application of policies that protect areas or assets of particular importance do provide a strong reason for refusing the development. Paragraph 195 of the NPPF also clarifies that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site.

7.9.5. However, proceeding on the basis that this is resolvable if the proposal was acceptable in all other respects, it is considered that it is sensible to undertake an assessment on the basis of the habitats issue being addressed. In such circumstances, it would need to be considered whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole This assessment is carried out below.

Benefits

- 7.9.6. The primary benefit is that the proposal would provide year-round accommodation for people that are understood to have become reliant on the accommodation at the site, many of whom it is indicated would not have alternative accommodation immediately available to them. Formally allowing the accommodation to be used on a year-round basis and not as holiday accommodation would avoid a potential situation where people could be made homeless if the site owners decide to comply with the conditions which should have been complied with previously.
- 7.9.7. The proposal would also provide a temporary boost to housing supply as, if the conditions are relaxed, the caravans could be considered temporary accommodation which can be counted towards a 5 year housing land supply. This would however represent a temporary boost which would be reversed in 2 years time and, as such, does not represent a substantive solution to the Council's inability to demonstrate a five year housing land supply.

Harm

- 7.9.8. In the same way that the abovementioned housing supply benefit would be temporary, the harms caused would be temporary.
- 7.9.9. For reasons set out above, the temporary proposal would conflict with the Settlement Strategy and represent an unsustainable form of development in a countryside location.
- 7.9.10. The relaxation of the conditions would effectively enable a temporary change of use that would be contrary to the development plan. The site is allocated as a holiday park and it is expected that the site should be used in such a way that generates economic activity throughout the local area. Whilst it is noted that the applicant's case is that the site does not function as a holiday park, the potential to achieve tourism activity through the use of the site would be temporarily lost.
- 7.9.11. A reason for the occupancy period being 10 months is to create a period of tranquillity. Albeit it would only be for a temporary period and it is understood that activity has been occurring in breach of the conditions (at this site and others) which would have undermined this objective, it is considered that formally allowing this activity to occur would cause harm to tranquillity and materially and unacceptably change the character of the area, for that temporary period.

Planning Balance (excluding the impact on protected habitats for the reason set out at 7.9.5)

- 7.9.12. Excluding the impact on protected habitats for the reason set out at 7.9.5 and applying the 'tilted balance' on the basis that the protected habitats issue can be easily resolved, it is still considered that the harm arising from the impact of the development and the associated conflict with paragraphs 88 and 187 of the NPPF would significantly and

demonstrably outweigh the benefits of the proposal. The proposal is, therefore, contrary to the NPPF when taken as a whole. The proposal is also contrary to the development plan when it is taken as a whole for the reasons that are set out above. Having regard to other material planning considerations, including the housing needs of people that have been using the site, and weighing those factors against the harms that have been identified and the conflict with national policy and the development plan, it is considered that planning permission should be refused.

Planning Balance (including the impact on protected habitats for the reason set out at 7.9.5)

- 7.9.13. Including the impact on protected habitats for the reason set out at 7.9.5 makes the balancing exercise far simpler. The unmitigated impact on protected habitats would provide a strong reason for the refusal of the application and, therefore, the NPPF would indicate, even more strongly, that planning permission should be refused.

7.10. Conclusion

- 7.10.1. For the reasons given above, the development plan indicates that planning permission should be refused and other material considerations, including the NPPF, do not indicate that a different decision should be reached. Consequently, it is recommended that the application is refused on the grounds of the impact on tranquillity, the impact on tourism and the rural economy, the conflict with the development plan settlement strategy and due to the lack of a SAMMS contribution.

- 7.10.2. In considering the application, account has been taken of the information included with the application submission, the National Planning Policy Framework and the Development Plan, and all other material considerations including representations made including the views of statutory and non-statutory consultees and members of the public.

7.11. Recommendation

- 7.11.1. Refuse the application for the following reasons:

7.12. Reasons for refusal

1. The effect of the application would be to, temporarily, formalise the removal of accommodation from being available for use for tourism purposes and enable the site to be put to residential use. This is contrary to the purposes of the allocated holiday park and would cause harm to the local economy to which tourism is an important contributor. Moreover, the proposal would cause harm to the tranquillity and character of the locality. Furthermore, the

proposal would be contrary to the Settlement Strategy for the Borough of Swale and the Isle of Sheppey Area Strategy by enabling a residential use to occur in a countryside location that is remote from the nearest settlements where a good range of services are available, that lacks the prospect of residents being able to integrate with the existing communities and is served by limited access to public transport to services, thereby resulting in a car dependent population. Having had regard to all other material considerations and having given consideration to whether any alternative conditions would be able to make the development acceptable, the proposal is, considered, unacceptable and contrary to Policies ST1, ST3, ST6, CP1, CP2, DM3, DM4, DM5 and DM14 of Bearing Fruits 2031 - The Swale Borough Local Plan 2017; and the National Planning Policy Framework

2. The proposed development will create potential for recreational disturbance to the Swale Special Protection Area and fails to provide adequate mitigation against that potential harm. The development would therefore affect the integrity of this designated European site, and would be contrary to the aims of policies ST1, CP7, DM5 and DM28 of Bearing Fruits 2031 - The Swale Borough Local Plan 2017; and the National Planning Policy Framework



3.6 REFERENCE NO -- 25/503390/FULL		
PROPOSAL – Section 73 Application for Variation of condition 2,3 and 4 (to allow year-round residential occupancy of caravans for a temporary period until 31 December 2027) pursuant to application SW/11/1521 for Variation of condition (ii) of planning permission NK/4/74/71 to allow occupation of caravans from 1st March to 3rd January in any year.		
SITE LOCATION -- Brookside Park First Avenue Eastchurch ME12 4JN		
RECOMMENDATION Delegate to the Head of Planning to refuse planning permission.		
APPLICATION TYPE Full – Section 73.		
REASON FOR REFERRAL TO COMMITTEE - The Head of Planning considers it to be in the public interest for the application to be determined by the Planning Committee.		
Case Officer – Demetri Prevatt		
WARD Sheppey East	PARISH/TOWN COUNCIL Eastchurch	APPLICANT Kent Holdco Ltd AGENT Laister Planning
DATE REGISTERED – 01/09/2025		TARGET DATE - 01/12/2025
BACKGROUND PAPERS AND INFORMATION: - 5061-352 -- Site Location Plan; - Covering Letter -- Prepared by Laister Planning Ltd. (08.08.2025); and - Planning Statement -- Prepared by Laister Planning Ltd. (08.08.2025). The full suite of documents submitted and representations received pursuant to the above application are available via the link below: https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=T0U1QZTYKL D00		

1. SITE LOCATION AND DESCRIPTION

- 1.1. The Brookside Park is a 1.9ha almost-square shaped holiday park located on the northwest side of First Avenue, which is an access road running through the large cluster of holiday parks located to the northeast of Eastchurch. The site is situated between Seafields Leisure Park to the southwest and a collection of bungalows to the northeast. While Cliff Cottages Chalet Park is located on the other side of First Avenue to the southeast, there is open countryside to the northwest. Brookside Park is comprised of approximately eighty-six (86) caravan plots and is one of the eight (8) individual holiday parks that are controlled by the Applicant and combine to form the larger Kent Parks site.

- 1.2. Kent Parks is comprised of Brookside Leisure Park, Cliff Cottage Chalet Park, Eastchurch Holiday Camp, Elmhurst Caravan Park, Pleasant View Caravan Park, Shurland Dale Holiday Park (North Site - Formerly Bramley Park), Shurland Dale Holiday Park (South Site), and Sunnymead Caravan Park. These eight (8) parks are adjacent to each other and share both ancillary facilities and operation services. The ancillary amenities and facilities include a convenience store (currently closed), children's playgrounds, laundrette facilities, outdoor amenity spaces, office space for the management company, two (2) reception buildings, and two (2) clubhouses with their own arcade, bar, event space, restaurant, and swimming pool.
- 1.3. The Kent Parks site is located to the northeast of Eastchurch outside of the build-up area boundaries of the Tier 4 rural local service centre. It is accessible from the rest of the Isle of Sheppey via Warden Road, which leads to an internal road network comprised of First, Second, Third and Fourth Avenues. Some of the properties neighbouring the site are residential in nature, some are agricultural units or open countryside, with the northeast coastline being within walking distance to the north. The site's proximity to the coastline means that parts of the Kent Parks site is within the Coastal Change Management Area and Erosion Zone 2.
- 1.4. The entire Kent Parks site is located within the impact risk zones of both the Sheppey Cliffs and Foreshore Sites of Special Scientific Interest (SSSI) and the Swale SSSI. Similarly, the site is within the 6.0km buffer zones of the Swale RAMSAR site and Special Protect Area (SPA), as well as the 6.0km buffer zone of the Outer Thames Estuary SPA.
- 1.5. In regard to other relevant planning constraints, the entire Kent Parks site is located within an area safeguarded for Brickearth. While it is also situated within Flood Zone 1, only parts of the site are considered to be at high risk of Surface Water flooding by the Environment Agency.
- 1.6. The list provided allow notes the planning constraints for the site:
- Agricultural Land Classification: Grade 3
 - Built-Up Area Boundary: Outside
 - Coastal Change Management Area: Within
 - England Coast Path: Isle of Sheppey
 - Flood Risk - Surface Water: High
 - Flood Zone: 1
 - Grade II* Listed Building: Shurland Castle
 - Grade II Listed Buildings: Connetts, Fletcher Battery, and Trouts (Nearby)
 - Great Crested Newt: Amber Zone
 - Holiday Park: Within
 - KMWLP - Safeguarded Area: Brickearth Swale Areas
 - Lower Medway Internal Drainage Board
 - National Character Area: Greater Thames Estuary
 - Public Footpath: ZS25

- Rural Lane: Near to
- The Medway Estuary and Marshes RAMSAR Site: Within Zone of Influence
- The Medway Estuary and Marshes SPA: Within Zone of Influence
- The Outer Thames Estuary SPA: Within 6.0km Buffer Zone
- The Sheppey Cliffs and Foreshore SSSI Risk Zone: Within
- The Swale RAMSAR Site: Within 6.0km Buffer Zone
- The Swale SPA: Within 6.0km Buffer Zone
- The Swale SSSI Risk Zone: Within

2. PLANNING HISTORY

- 2.1. 24/503170/LDCEX -- Lawful Development Certificate (Existing) for use as a caravan site in breach of conditions 2, 3 and 4 of Planning Permission SW/11/1521.

Refused on 26.09.2024.

- 2.2. 20/504175/FULL -- Section 73 application to permit permanent year round residential use of caravans - removal of conditions 2 (occupancy restriction) and condition 3 (occupancy restriction) imposed on planning permission reference SW/11/1521.

Refused -- 24.03.2020.

Appeal Dismissed.

- 2.3. SW/11/1521 -- Variation of condition (ii) of planning permission NK/4/79/71 to allow occupation of caravans from 1st March to 3rd January in any year.

Conditionally Granted -- 03.02.2012.

- 2.4. SW/08/0323 -- Variation of condition (ii) of planning permission NK/4/74/71 to extend the permitted season by two months (to allow the opening from 15th March to 15th January each calendar year).

Refused -- 14.05.2008.

- 2.5. SW/06/0284 -- Variation of condition (ii) of planning permission reference NK/4/74/71 to allow occupancy of the caravan site for 10 months of the year from 1st March to 1st January.

Refused on 13.06.2006.

- 2.6. NK/4/74/71

Conditionally Granted

Other Relevant Applications and Appeal Decisions.

2.7. Whilst it is essential that all cases are considered on their own merits, it is also appropriate for Local Planning Authorities to act consistently and have regard to the outcome of other appeals as material considerations, particularly where it might inform the manner in which policies are interpreted and applied. Other comparable applications and appeals relating to the use of holiday parks on a year-round basis received since January 2020 include the following:

2.8. Beverley Camp, Warden Road, Eastchurch.

Application 22/505778/FULL – Refused

Retrospective application for change of use from a holiday park (10 months occupancy) for the siting of 21no. residential retirement park homes for use all year round.

2.9. Shurland Dale Holiday Park, Warden Road, Eastchurch

20/505317/FULL – Refused

Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1525, to allow the caravan park to open/be occupied for 12 months per year as a holiday park.

20/505304/FULL – Refused

Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1042, to allow the caravan park to open/be occupied for 12 months per year as a holiday park.

2.10. Vanity Farm Camp, Leysdown Road, Leysdown

Application 22/505752/FULL – Refused

Section 73 - Application for variation of condition 2 (to allow use of the holiday park on a year-round basis) pursuant to SW/11/1608 for - Variation of condition (i) of planning permission NK/8/50/51 to allow occupation of the site for 10 months (1st March to 2nd January).

Appeal APP/V2255/W/24/3356382 – Dismissed

Application 21/505773/FULL - Approved

Section 73 - Application for a temporary variation of condition 2 (occupancy restriction) pursuant to application SW/11/1608, to allow occupancy of the chalet/caravans from the 02/01/2022 to 28/02/2022 (after which the park will revert back to a 10 month occupancy restriction).

Applications 20/505526/FULL, 20/503803/FULL and 20/502453/FULL approved a similar temporary permission at individual units 1, 85, 77 Vanity Farm Camp.

A similar temporary variation was approved at land adjoining Vanity Farm and now part of Harts Park under the terms of application 21/505699/FULL and a further application at Harts Park for a similar temporary change was approved under 21/505692/FULL.

2.11. Golden Leas Holiday Park, Bell Farm Lane, Minster on Sea

Application 20/503267/FULL – Refused

Section 73 application to vary condition 2 of planning permission ref SW/11/1588 to permit permanent year round residential use of 20no. caravans (age restricted to over 55s) as identified by drawing no. 4348-510 (The remainder of the site to continue in use for the stationing of caravans as holiday accommodation and for a maximum 10 month period each year).

Appeal APP/V2255/W/21/3279116 – Dismissed.

2.12. Estuary View Caravan Park, Bell Farm Lane, Minster on Sea

Application 20/503268/FULL – Refused

Section 73 - Application to permit permanent year round residential use of caravans - Removal of Conditions 2 (occupancy restriction), 3 (occupancy restriction) and 4 (compliance with schedule of requirements) imposed on planning permission reference SW/12/0195.

Appeal APP/V2255/W/21/3279125 - Dismissed

2.13. Ives Holiday Camp, Park Avenue, Leysdown

Application 20/502813/FULL – Refused.

Section 73 - Application to permit permanent year round residential use of caravans - removal of condition 2 (occupancy restriction), 3 (occupancy restriction) and 4 (occupancy restriction) imposed on planning permission 19/502752/FULL for retention of existing dwelling and change of use of land to a holiday caravan park.

2.14. Plough Leisure Caravan Park, Plough Road, Minster on Sea

Application 20/502811/FULL – Refused

Section 73 - Application to permit permanent year round residential use of caravans (age restricted to over 55s) for the land outlined in red on plan PL-LOC - removal of condition 2 (occupancy restriction), 3 (occupancy restriction) and 4 (occupancy restriction) imposed on planning permission SW/12/0024

Appeal APP/V2255/W/21/3277288 – Dismissed

20/505401/FULL – Approved

Section 73 - Application for a temporary variation of condition 2 (occupancy restriction) pursuant to application SW/12/0024, to allow occupancy of the caravans and chalets on the park during January and February 2021 (after which the park will revert back to a 10 month holiday occupancy restriction).

2.15. Hollybush Farm Caravan Park, Oak Lane, Minster-on-sea

22/500510/FULL – Approved

Section 73 - Application for temporary variation of condition 2 (occupancy restriction) pursuant to application SW/11/1587, to allow occupancy of the chalets/caravans from the 02/01/2022 to 28/02/2022 (after which the park will revert back to a 10-month occupancy restriction).

2.16. Sheerness Holiday Park, Halfway Road, Minster-on-sea

21/506564/FULL – Refused

Section 73 - application for Variation of condition 2 (occupancy restriction) of SW/12/0080 to allow the caravan park to open/be occupied for 12 months per year as a holiday park. (Resubmission of 20/505387/FULL).

As detailed in the description, similar application 20/505387/FULL was refused.

2.17. Central Beach Caravan Park, Grove Avenue, Leysdown

21/506563/FULL – Refused

Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1522, to allow the caravan park to open/be occupied for 12 months per year as a holiday park. (Resubmission of 20/505388/FULL).

2.18. Ashcroft Caravan Park, Plough Road, Eastchurch

21/506558/FULL – Refused

Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1044, to allow the caravan park to open/be occupied for 12 months per year as a holiday park. (Resubmission of 20/505316/FULL).

As detailed in the description, similar application 20/505316/FULL was refused.

2.19. Seafields Caravan Park, First Avenue, Eastchurch

21/506426/FULL – Approved

Section 73 - Application for variation of condition 2 (occupancy restriction) pursuant to application SW/11/1284, to allow the caravan park to open/occupied for additional 2 months in 2022 (January and February) on a temporary basis.

2.20. Copperfield Holiday Park, Fourth Avenue, Eastchurch

20/505905/FULL – Approved

Section 73 - Application for a temporary variation of condition 2 (occupancy restriction) pursuant to application SW/11/1432, to allow occupancy of the caravans and chalets on the park during January and February 2021 (after which the park will revert back to a 10 month holiday occupancy restriction).

3. PROPOSED DEVELOPMENT

- 3.1. The application, submitted under the terms of Section 73 of the Town and Country Planning Act, is seeking an amendment to the conditions imposed on planning permission SW/11/1521 which granted permission for Variation of condition (ii) of

planning permission NK/4/74/71 to allow occupation of caravans from 1st March to 3rd January in any year.”

- 3.2. The amendment would temporarily enable year-round occupation of the caravans located within the holiday park for a period ending on 31.12.2027 and enable a relaxation of the nature of the occupation, through the re-wording of Conditions 2, 3 and 4.
- 3.3. Since the amendment would only affect the occupancy allowed by the extant Planning Permission and its conditions, no physical alterations or amended drawings are required. The only changes would be to the relevant existing conditions that are copied below.

Condition 2 -- Allowable Period of Occupation

No caravans shall be occupied except between 1st March and 2nd January in the following calendar year, and no caravan shall be occupied unless there is assigned agreement between the owners or operators of the Park and all caravan owners within the application site, stating that:

- a) The caravans are to be used for holiday and recreational use only and shall not be occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence; and
- b) No caravans shall be used as a postal address; and
- c) No caravan shall be used as a residence for registering, claiming or receipt of any state benefit; and
- d) No caravan shall be occupied in any manner, which shall or may cause the occupation thereof, to be or become a protected tenancy within the meaning of the Rent Acts 1968 and 1974; and
- e) If any caravan owner is in breach of the above clauses their agreement will be terminated and/or not renewed upon the next expiry of their current lease or licence.

On request, copies of the signed agreement[s] shall be provided to the Local Planning Authority.

Grounds: In order to prevent the caravans from being used as a permanent place of residence, an in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.

Condition 3 -- Signed Agreement

Any caravan that is not the subject of a signed agreement pursuant to Condition 2 shall not be occupied at any time.

Grounds: In order to prevent the caravans from being used as a permanent place of residence, an in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.

Condition 4 -- Operation Management

The owners or operators of the Park shall at all times operate the Park strictly in accordance with the terms of the Schedule appended to this decision notice.

Grounds: In order to prevent the caravans from being used as a permanent place of residence, an in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.

Schedule

The park operator must:

1. Ensure that all caravan users have a current signed agreement covering points (a) to (e) in condition 2 of the planning permission; and
2. Hold copies of documented evidence of the caravan users main residence and their identity; this may comprise of utility bills, Council Tax bill, passport, driving licence or similar document; and
3. On request, provide copies of the signed agreement[s] to the Local Planning Authority; and
4. Require caravan users to provide new documentation if they change their main residence; and
5. Send all written communications to the main residence of the caravan user; and
6. Not allow postal deliveries to the caravan or accept post on behalf of the caravan users at the park office; and
7. Ensure that each caravan is to be used for holiday use only and that no caravan is occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence, of the user or occupant; and
8. Adhere to a code of practice as good as or better than that published by the British Homes and Holiday Parks Association.

4. REPRESENTATIONS

- 4.1. A single round of consultation has been undertaken, during which letters were sent to neighbouring occupiers. A notice was displayed at the application site and the application was advertised in the local newspaper. Full details of representations are available online.
- 4.2. Eastchurch Parish Council strongly objected to the application on the following grounds:

Comments	Report reference
Applications comparable to this have consistently been resisted at the site.	See Section 2 above.

Conflict with Policies ST3, DM4, DM5, CP3, CP6, DM21 and DM23.	Regard has been had to the policies of the local plan throughout the below assessment.
Conflict with the NPPF including paragraphs 11, 78, 79, 84, 85, 152 and 174.	Regard has been had to the NPPF throughout the below assessment.
Extensive breaches of planning control have occurred. Granting planning permission would reward this.	Opinion noted.
A temporary permission would create an expectation of a permanent permission to follow.	Opinion noted.
A formal site visit is requested.	Officers have visited the site.
Requested that the application be presented to the Planning Committee.	The recommendation is not contrary to the position of the Parish and so this is not the reason for the application being presented to the Planning Committee.

5. CONSULTATIONS

5.1. There has been one (1) round of consultation for consultees

5.2. **KCC Highways** -- No Comments.

5.3. **KCC Flood and Water Management** -- No Comments.

5.4. **KCC Ecological Advice Service (KCC EAS)** -- No objection on the condition that the Applicant provides a proportional financial contribution to the SAMMS.

5.5. **KCC Public Rights of Way (PROW)** -- No Comments.

5.6. **SBC Economy & Regeneration:** The Economy and Regeneration team are ordinarily supportive of all tourism related developments in the borough. However, the application to extended the occupation months at the holiday parks in question, would lead to a loss of income generated by visitors to the island in both high and low seasons. It will also reduce the variety of accommodation available for visitors to choose from as many of the caravans will default to being full time residential properties. There is limited accommodation of the same type, on offer elsewhere in the borough and it would therefore be beneficial to maintain the holiday stock available on the Isle of Sheppey.

5.7. **SBC Housing** -- The Housing team has engaged regularly with representatives from Kent Parks, who have provided information indicating that a number of occupants are residing in the holiday parks as their permanent homes. This is in breach of the existing planning consents, which they have acknowledged and have sought to work with the Council to resolve the issue. It remains unclear whether the accommodation on these sites meets the standards required under the Mobile Homes Act, and therefore may not be suitable for permanent residential use.

In response to the ongoing issues, the Council's Homelessness Prevention Team has conducted on-site drop-in surgeries to offer advice and support to residents at risk of homelessness.

Historically, the annual closure of caravan parks across the Isle of Sheppey has led to a notable increase in demand for Housing Options services. In the previous year, 55 households approached the Housing Options team due to caravan park closures. Of these, 12 households were specifically from Kent Parks sites. So far this year, 23 households have approached the service. Of these, 11 households were specifically from Kent Parks sites. It is important to note that this year's figures are likely to rise as we approach the winter period, when park closures typically peak.

Should this level of presentation continue or increase, it would place significant pressure on the Housing Options service to deliver statutory duties, including the provision of advice, assessments, and sourcing suitable accommodation. This would also result in substantial financial implications for the Council, particularly in relation to the cost of temporary accommodation.

5.8. **Mid-Kent Environmental Protection** -- No comments.

5.9. **Environment Agency (EA)** -- No Comments.

5.10. **Natural England (NE)** -- Providing that the appropriate assessment concludes that the measures can be secured[with sufficient certainty] as planning conditions or obligations by your authority ,and providing that there are no other likely significant effects identified (on this or other protected sites) which require consideration by way of appropriate assessment, Natural England is likely to be satisfied that your appropriate assessments will be able to ascertain with sufficient certainty that there will be no adverse effect on the integrity of the European Site from recreational pressure in view of the site's conservation objectives. In this scenario, Natural England is unlikely to have further comment regarding the Appropriate Assessment, in relation to recreational disturbance.

5.11. **Lower Medway Internal Drainage Board (LMIDB)** -- No Comments.

5.12. **Southern Water** -- No objections.

5.13. **Kent Police** -- No Comments (Outside of Scope)

6. DEVELOPMENT PLAN POLICIES

Bearing Fruits 2031: The Swale Borough Council Local Plan 2017 (the Local Plan)

- ST1 Delivering sustainable development in Swale
- ST2 Development targets for jobs and homes 2014-2031
- ST3 The Swale settlement strategy
- ST4 Meeting the Local Plan development targets

ST6 The Isle of Sheppey area strategy
 CP1 Building a strong, competitive economy
 CP2 Promoting sustainable development
 CP3 Delivering a wide choice of high quality homes
 CP4 Requiring good design
 CP5 Health and wellbeing
 CP6 Community facilities and services to meet local needs
 CP8 Conserving and enhancing the historic environment
 DM3 The rural economy
 DM4 New holiday parks or extensions to existing parks
 DM5 The occupancy of holiday parks
 DM6 Managing transport demand and impact
 DM7 Vehicle parking
 DM14 General development criteria
 DM19 Sustainable design and construction
 DM21 Water, flooding and drainage
 DM26 Rural Lanes
 DM28 Biodiversity and geological conservation
 DM32 Development involving listed buildings

Supplementary Planning Guidance/Documents -

Landscape Character Assessment and Biodiversity Appraisal (LCA&BA), 2011.
 Parking Standard Supplementary Planning Document, 2020.
 Air Quality and Planning Technical Guidance, 2024.
 Strategic Access Management and Monitoring Strategy (SAMMS), 2014

National Planning Policy Framework (the NPPF)

National Planning Practice Guidance (NPPG)

Kent Mineral and Waste Local Plan 2024-39 (KM&WLP), 2025 & the Kent Mineral Sites Plan (KMSP), 2020.

7. ASSESSMENT

The main considerations involved in the assessment of the application are:

- Principle
- Heritage
- Ecology
- Transport and Highways
- Air Quality
- Impact of Additional Activity on Living Conditions and Countryside Tranquillity
- Other Matters

7.1. **Principle**

- 7.1.1. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.

- 7.1.2. The NPPF provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.

Terms of Application

- 7.1.3. The application has sought the variation of conditions 2, 3 and 4 to enable their relaxation for a 2 year period. Depending on the approach that is taken, conditions could be imposed to either make the effect of any permission temporary or the conditions could be varied to set out the limitations that exist for two years and the conditions that would then be applicable thereafter.
- 7.1.4. In the event that the complete relaxation of conditions 2, 3 and 4 for a two year period is not found to be acceptable, consideration should be had to whether alternative conditions could be imposed to make a development acceptable. In this regard, it is noted that paragraph 4.3 of the applicant's Planning Statement sets out that they would be happy to discuss limitations relating to the number of caravans that are able to be occupied, the new and varied occupancy periods and leasing/licensing arrangements. An assessment will be made in relation to the entire relaxation of the conditions for a two year period and the potential to impose alternative conditions.

Development Plan – Settlement Strategy

- 7.1.5. Policy ST1 states that development proposals will accord with the Local Plan Settlement Strategy. The site is located outside the built-up area boundaries that exist within the Swale Borough.
- 7.1.6. The Settlement Strategy is set out at Policy ST3 and, as far as it is relevant to this application, it states that "At locations in the open countryside, outside the built-up area boundaries shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities."
- 7.1.7. The part of the exception that relates to the NPPF can be considered further below but, regardless of any conclusion that is reached in that respect, for reasons that will be set out below, the proposal would not enhance "the intrinsic value, *landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities*". Therefore, the proposal is contrary to the Settlement Strategy.
- 7.1.8. Policy CP2 states that "*new development will be located in accordance with Policy ST1 to Policy ST7....which minimise the need to travel for employment and services*

and facilitate sustainable transport.” The site is located outside the settlement boundary and does not accord with Policy ST1 and ST3 as set out above. Whilst there is no new built development, the altered usage of the site would be new and, as such, the policy CP2 is considered to be applicable and conflicted with.

- 7.1.9. Policy CP4 states that development should *“make safe connections physically and visually both to and within developments, particularly through using landscape design and open space to retain and create green corridors for pedestrians, cyclists and biodiversity.”* Policy CP2 also states that development should *“achieve alternative access to all services through promoting access to sustainable forms of transport particularly bus, cycling and rail transport and improving interchange between them from the earliest stages of development.”*
- 7.1.10. Policy DM6 requires that *“developments demonstrate that opportunities for sustainable transport modes have been taken up.”* It also states that *“The location, design and layout of development proposals will demonstrate that priority is given to the needs of pedestrians and cyclists, including the disabled, through the provision of safe routes which minimise cyclist/pedestrian and traffic conflict within the site and which connect to local services and facilities [and that] access to public transport is integrated into site design and layout where appropriate.”*
- 7.1.11. Policy DM14 states that development will *“Achieve safe vehicular access, convenient routes and facilities for pedestrians and cyclists, enhanced public transport facilities and services.”*
- 7.1.12. The site is distant from the nearest bus stops and the site is remote from Eastchurch which is served by limited facilities for residents. From this basis, whilst there is a limited level of access to public transport, those connections are distant and provide a service of limited coverage. Whilst occupiers of the site might cycle, services would be limited and/or distant from the site and, therefore, are unlikely to be regularly cycled to. Therefore, it is considered inevitable that the majority of people at the site will be reliant on private modes of transport. This is true for lawful tourism users of the site and year-round occupiers of the site. However, it is considered that residents would have a different travel pattern and, as such, residential uses should be directed to sites better served by services and facilities capable of meeting their day-to-day needs. Whilst noting the difference between this temporary application and other applications being for the permanent relaxation of the conditions, this finding is consistent with other recent appeal decisions within the vicinity and it is considered that the conflict with the abovementioned policies would arise whether the use is permanent or temporary.

Development Plan – Holiday Parks

- 7.1.13. The site is allocated in the Local Plan Proposals Map as a Holiday Park. Policy DM4 addresses the provision of new holiday parks, the extension of holiday parks and the provision of new or improved facilities within holiday parks. The content of that policy is not considered to be instructive for the assessment of this application. However,

the pre-ambble to that policy provides some context for the consideration of applications related to holiday parks, stressing that a core principle of the NPPF is to proactively drive and support sustainable economic development. It goes on to state that *“Holiday parks provide direct employment and their users support shops, pubs, restaurants and visitor attractions. There can also be other social benefits in that they give work in areas where little alternative employment exists. The changing nature and flexibility of the leisure market and the higher aspirations of customers today are leading to leisure providers continually developing new concepts to respond to consumer needs and aspirations.”*

- 7.1.14. Local Plan Policy DM5 addresses the occupancy of holiday parks and reads as follows:

In order to ensure a sustainable pattern of development and to protect the character of the countryside, planning permission will not be granted for the permanent occupancy of caravans and chalets. Where it can be demonstrated that higher quality standards of holiday accommodation can be secured, planning permission will be granted for proposals to extend the occupancy of holiday parks between 1 March and 2 January the following year (a 10 month occupancy), provided that:

- 1. The site is not at risk of flooding, unless, exceptionally, applications accompanied by a Flood Risk Assessment (FRA) satisfactorily demonstrating that the proposal would result in no greater risk to life or property and where an appropriate flood evacuation plan would be put in place;*
- 2. The amenity and tranquillity of the countryside and residential areas are safeguarded;*
- 3. The proposals are in accordance with Policies DM 22 and DM 23 relating to the coast and the coastal change management area; and*
- 4. Where located adjacent or in close proximity to the Special Protection Areas (SPA), an assessment has been undertaken to determine the level of disturbance to over-wintering birds and identified mitigation measures, where appropriate.*
- 5. The extension of occupancy is subject to planning conditions safeguarding the holiday accommodation from being used as sole or main residences, as set out in Appendix 2.*

- 7.1.15. The pre-ambble to the policy highlights the history of most of the holiday parks, noting that 8 month (and eleven days at Christmas and New Year) occupancy restrictions existed in most cases. The supporting text indicates that *“the limited occupancy period was imposed to ensure that these holiday parks were not used as permanent (and sometimes sub-standard) housing (many of which would be in poorly accessible parts of the Borough) and to protect the character of the rural area. Limited occupation also afforded the opportunity to retain a period of tranquillity in rural and other areas. In areas at risk of flooding, permanent occupation over the winter period could also result in risk to life.”*

- 7.1.16. The supporting text highlighted that *“to give more scope and incentive to enable modernisation and upgrading to take place, the Council considers that there will be occasions when a 10 month occupancy period will be acceptable, which will, in turn,*

deliver tourism benefits and support for the local economy.” It goes on to state that Policy DM5 sets out the parameters within which applications to extend occupancy of holiday parks to a 10 month period will be permitted before stating that “Permanent occupation will continue to be resisted.”

Condition 2 – Occupancy Period.

- 7.1.17. This application does not seek the permanent occupancy of the accommodation at the site as the year round occupancy is proposed for a temporary period of 2 years. From this basis, the effect of the application would not be directly contrary to the first sentence of Policy DM5 as it has been written.
- 7.1.18. However, the application would enable the extension of the occupancy period that is defined in the remainder of the first part of Policy DM5. The policy should be read in the context of the history of the holiday park sites and the earlier iterations of the development plan which imposed an 8 month (plus 11 days at Christmas and New Year in some cases) occupancy limitation. Paragraph 7.1.27 of the Local Plan states that *“to give more scope and incentive to enable modernisation and upgrading to take place, the Council considers that there will be occasions when a 10 month occupancy period will be acceptable.”* Whilst the Policy allowed for an increased occupancy period up to 10 months, subject to conditions, there is no indication that this would be able to be extended to 12 months in any circumstances, on a temporary or permanent basis.
- 7.1.19. From this basis, the proposed relaxation of the condition to enable year round occupation, albeit only for two years, would be contrary to the objectives of Policy DM5. Having regard to the potential to impose alternative conditions, any occupancy exceeding 10 months would be contrary to the aim of the policy. It is clear from the application submissions that the intention is to enable occupiers to be resident at the site on a year round basis and, therefore, any mid-ground occupancy period would be contrary to the intentions of the applicant.

Conditions 2, 3 and 4 – Main Residence Restriction and Record Keeping.

- 7.1.20. Turning to the criteria that are set out within Policy DM5, it is considered relevant that the assessment of these matters is only applicable in the context of the abovementioned occupancy limitation being complied with. Notwithstanding this, the criteria give a direction as to the key material considerations for this application. The matters addressed by criteria 1 to 4 of Policy DM5 are addressed in the relevant sections below.
- 7.1.21. For reasons that will be set out below, the variation of conditions in effect at the site would cause the use of the site to conflict with Criteria 2. There would be a technical conflict with Criteria 1 as the site is at very low risk of surface water flooding but, for the reasons also set out below, it is considered that no objection should be raised to the application on the grounds of flood risk as no harm would arise. In relation to Criteria 4, there is grounds to object where no mitigation provisions are secured but it

is expected that this would be able to be resolved. Again, this will be considered further below.

- 7.1.22. With respect to Criteria 3, the northernmost corners of the site are located within Coastal Erosion Zone 2 and the Coastal Change Management Area. It appears that this would amount to the land on which three caravans are shown on the submitted location plan. There is a breach of policy DM33 as it has not been demonstrated that the accommodation would be safe and it is expected that there would be an elevated risk of coastal erosion in the period. However, the effected caravans are distant from the current coast lint and, in any case this would be an instance where the potential harm could be overcome through the imposition of a condition stating that the effected caravans cannot be occupied. From this basis, no objection is raised to the proposal on this ground.
- 7.1.23. In respect of Criteria 5, the planning conditions set out at Appendix 2 of the Local Plan are fundamentally the same as appear within existing conditions 2, 3 and 4 that currently apply to the permitted use at the site, as detailed above. The application seeks to vary these conditions. By varying these conditions, the development would no longer accord with Policy DM5 and the limitations that are fundamental to holiday parks to benefit from 10 month occupancy periods. Consequently, an application to use the site without complying with those conditions is in conflict with Policy DM5.
- 7.1.24. Amongst other relaxations, the primary effect of this would be to enable the accommodation at the site to be used as a persons primary residence. This is corroborated by the Applicant's Planning Statement which states that many of the existing occupants do not have an alternative permanent address and would be made homeless if the application site was made uninhabitable during the two-month closed season. This means that these caravans are the sole residence for these occupants and the relaxation of the subject conditions and year-round occupation of these sole residences would constitute their operation, for a two-year period, as dwellings rather than as tourist accommodation. This is entirely contrary to the designation of the site within a holiday park and the associated policies that are discussed above.

Temporary Effect of Variation

- 7.1.25. The application seeks the relaxation of conditions for a temporary period and, as such, the application is considered to be seeking what is tantamount to a temporary planning permission, which is enabled by Section 72 of the Act. Planning Practice Guidance states that *"Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period."*
- 7.1.26. The application is not being advanced as a 'trial run.' The case of the applicant is that planning circumstances might change at the end of the proposed two year period as they are seeking to advance proposals to develop the site. This is evidenced by virtue of a Screening Opinion (25/504264/ENVSCR) which has been sought for the

development of this site, along with other land that is within the applicant's control and is referenced in the planning history section above. This has been referred to as a "meanwhile use" by the applicant which is described in the Planning Practice Guidance as a temporary use of vacant land or buildings prior to any longer term proposals coming forward. The site is not vacant and so this is not directly relevant. However, whichever element of the PPG is drawn from, it is the case of the applicant that the proposal should be considered as a temporary situation until a permanent re-development of the site is brought forward.

- 7.1.27. At this stage, there can be no guarantee that the re-development of the site in the manner described would be granted planning permission. Whereas a 'meanwhile use' might be beneficial by bringing activity to a site that is vacant, that benefit would not arise here as, if not approved, the site would retain its lawful use and caravans would continue to be kept at the site. Conversely, putting the site to use outside the period that is defined by conditions would actively derive harm as a result of the impact on tranquillity that will be considered further below. From this basis, it is considered that negligible or very limited weight should be given to the suggestion that an alternative development might replace the existing or amended situation in the future and that no benefit would arise from the 'meanwhile use' of the site that is suggested by the applicant.

Number of Caravans Affected

- 7.1.28. The applicant's submissions have addressed this application along with the other adjacent sites that are within their control. As such, site specific details are difficult to ascertain. However, it is indicated at paragraph 3.5 of the applicant's submissions that there is a capacity of approximately 1197 units at the overall land holding and at least 200 of them have been occupied in breach of the abovementioned conditions. It is understood that the sites within the applicant's control are not the only holiday parks where a breach of condition has taken place.
- 7.1.29. Should this and the other concurrent applications be allowed in the broadest of terms, all of the units would be able to be occupied throughout the prescribed period. This would far exceed any need to accommodate a number of the occupiers of the 200 or so caravans that have been indicated to have been occupied in breach of the restrictions previously. To allow the relaxation of the conditions for all of the caravans would not only address the existing breach that has occurred but potentially give rise to a far increased level of occupancy that would present greater issues at the end of the temporary period than would otherwise be the case. Unless precision was included in relation to the number of caravans occupied, the site could attract occupiers from other sites. That might be of benefit to enabling other sites to comply with their conditions, but it could increase the number of residents at the applicant's holding who, in 2 years time, might have an even greater expectation of being allowed to stay at the site year-round.
- 7.1.30. It is noted within the applicant's submissions that they would be willing to discuss conditions, including a condition that could restrict the number of caravans that can be

occupied. Such a discussion has not occurred. However, if minded to approve, it would be necessary to discuss the number of caravans that can be occupied on this site and attempt to imbed that into a condition that meets the applicable tests. Such a condition could also attempt to secure a lower number in the second year to give the Council comfort that the applicant is working towards reducing the number of persons that occupy the site in breach of the planning conditions.

- 7.1.31. However, enforcing such a condition would be riddled with difficulties, particularly on a caravan site where (notwithstanding the comments of the applicant that many of the caravans would not be able to be moved without being damaged) should be capable of being moved. Whereas a blanket restriction on occupation is enforceable, identifying which caravans are occupied and which are not, would be inherently difficult if not virtually impossible. For example, if a limit was reached, how would a person attempting to enforce that limit know which caravan should be enforced against. A plan would be required to specifically identify which caravans would be occupied but no such plan has been submitted and there is no current way available to be able to identify specific caravans.

Housing Supply

- 7.1.32. Swale Borough Council cannot demonstrate a five year housing land supply. Therefore, where a proposal relates to the provision of housing, the approach set out at paragraph 11d) of the NPPF is applicable.
- 7.1.33. Setting aside the conflict with the development plan, caravans in C3 use are able to count towards Housing Supply, and the use of the site as housing could count towards the supply of housing within the Borough. Depending on the approach taken to the number of caravans that the relaxation would apply to, this could be any number up to 1,197 units across the applicant's overall holding, of which 86 units are at this site. However, this 'supply' would only exist for 2 years and, as it would have to be discounted within the same assessment period, such temporary accommodation is not counted in the Council's 5 year housing land supply.
- 7.1.34. It is considered that a temporary housing supply boost can only be given limited weight as a planning benefit. It is not effectively addressing any housing shortfall as that shortfall would return in 2 years and it is not considered that caravan accommodation, which the applicant recognises is in poor condition, is a sustainable solution to addressing housing needs. It is recognised that a need is derived from the historic breaches of the conditions at the site and that the NPPF indicates that a sufficient amount and variety of land should come forward for housing, where it is needed and that the needs of groups with specific housing requirements are addressed.
- 7.1.35. The applicant identifies that the site and the wider land holding has been used to accommodate people on a year-round basis. This has been in breach of the abovementioned conditions and could be liable to enforcement action. This has created a situation where year-round occupiers are present and reliant on the accommodation. To refuse this application would result in it continuing to be the case

that year round occupation would be in conflict with the abovementioned conditions and a breach of planning control, with harms that are identified elsewhere in this report. It is therefore considered that the future 'need' for housing that has been generated by the past breaching of planning conditions at the site needs to be weighed against the harms and conflict with national and local planning policies.

- 7.1.36. The applicant has indicated that occupiers would be made to leave the site from January 2026. Some of those occupiers might have no alternative accommodation available and, as such, could present themselves to the Council as homeless. The needs of the local population should be a material consideration and will be considered. The duty on the Council to accommodate any persons that are caused to be homeless could create considerable difficulties for the Council and it is a key component of the applicant's case that allowing the application would avoid implications for other services of the Council, primarily the Council's Housing Team who would potentially see a sharp increase in demand, with the cost and labour implications.
- 7.1.37. In this regard, it is considered relevant that the Council is not hereby deciding whether or not to serve a Planning Enforcement Notice or a Breach of Condition Notice at the site. The decision of the applicant to comply with planning conditions if this application is refused, which should be a fundamental requirement, would be a decision for the applicant. The problem that may or is likely to exist around persons being homeless is a consequence of the unlawful occupation of the site that is understood to have been enabled by the applicant's predecessors. Accommodating people that might not have alternative accommodation can be viewed as a benefit of granting planning permission. However, this could also be achieved by not enforcing the conditions or by the chosen form of enforcement.
- 7.1.38. A factor that is considered to be important to this assessment is the quality of the accommodation at the site. The pre-ambles to Policies DM4 and DM5 identify that some of the Borough's accommodation of this type is of poor quality and in need of improvement. Consistent with this, the applicant's own Planning Statement sets out that some of the accommodation at the site is of poor quality, with their submission stating that the caravans are old and liable to break if moved. In the absence of any form of detailed assessment of the quality of the accommodation, it is considered appropriate to give weight to a visual inspection of the site which suggests that much of the accommodation is not likely to accord to modern standards. Whilst it is expected that occupiers will value this accommodation and it is noted that reference has been made to the existence of a community spirit at the site and the holding in general, it is considered that the reliance on living accommodation that might not accord with modern standards should not be considered to be sustainable. In this regard and giving consideration to the potential to use a condition that limits the number of caravans, there is no evidence available to suggest whether those residents in the greatest need would have access to the best-kept caravans or those at the other end of the quality and maintenance range.

- 7.1.39. The proposal being a 'meanwhile use' is considered to weigh against the suggestion that the proposal would address a homelessness situation from occurring. It is acknowledged that the temporary availability of accommodation could provide a short-term solution to the existing hidden homelessness. However, it is integral to this that the applicant intends to bring the current situation to an end and re-develop the site. This would not address the situation in the medium term and, whilst occupiers would have a 2 year opportunity to find alternative accommodation, they would equally have 2 years to become more imbedded at the site and, potentially, develop a hope or expectation that a further year round occupancy will be provided in the future. There can be no certainty that the future proposals at the site would (or would not) be available to the current occupiers at the site and therefore, even noting that the temporary permission would afford those residents additional time to find alternative accommodation, it is likely that they would have to leave the site in due course in any case. Whilst a relocation management plan to guide occupiers to suitable accommodation prior to the end of the temporary period might have been able to be explored and been the subject of a condition, it is considered that there could be little comfort or certainty that such a plan would be effective and, in the circumstances that have been detailed by the applicant, it is not clear how a phased reduction of occupiers at the site would be able to be achieved. The proposal would be as likely to postpone any problems rather than address them.

Tourism and Economic Development Considerations.

- 7.1.40. Policy CP1 of the Local Plan seeks to safeguard or enhance Swale's 'Principal Tourism Assets' and to consolidate or widen the tourism potential of the borough. Holiday parks are listed under the borough's 'Principal Tourism Assets' and the supporting text sets out that these should be protected from inappropriate development. Policy ST6 seeks to support the existing tourism offer on the Isle of Sheppey and the supporting text to this policy emphasises the importance of tourism to the economy of the Isle of Sheppey. Policy DM3 promotes rural tourism and makes clear that residential development should not be permitted at the expense of rural employment. The supporting text to policy DM4 states that holiday parks provide direct employment and support shops, pubs, restaurants and visitor attractions.
- 7.1.41. Whilst the comments of the applicant relating to the manner in which the site has not operated as a conventional holiday destination are noted, to formally change the use of the site (even for a temporary period) would compound the loss of holiday accommodation and reduce the tourism offer that exists and is of significance to the local economy. This would be contrary to the above policies that seek to safeguard and enhance tourism and to prevent the use of holiday parks as a person's main residence.
- 7.1.42. No detailed information has been provided to demonstrate why the accommodation is not suitable for holiday use and there is no evidence that demonstrates insurmountable difficulties to use the units as holiday accommodation. The residential use of the site would undermine the clear strategies in the adopted local plan to promote and increase the tourism offer in the borough and on the Isle of Sheppey,

where tourism plays a vital role in the local economy. In this regard the change of use is contrary to policies CP1, ST6, DM3, DM4 and DM5 of the Local Plan.

- 7.1.43. It is considered that these policies are consistent with the NPPF as paragraph 88 of that document states that planning decisions should enable “...*the sustainable growth and expansion of all types of business in rural areas and sustainable rural tourism and leisure developments which respect the character of the countryside*”.

Other Conditions

- 7.1.44. As set out above, regard has to be had to the use of other conditions. In this case, it is considered that any period of occupancy beyond 10 months would conflict with policy DM5, albeit potentially to a lesser degree.
- 7.1.45. Similarly, whilst a limitation on the number of units able to be occupied would reduce the scale of conflict, any occupancy contrary to the current conditions would inherently be in conflict with the development plan.
- 7.1.46. There are other materials considerations to consider in relation to this case, which will be addressed below. However, it must be a crucial consideration that the variation of condition, as sought or any comparable version of that amendment, would cause the development at the site to be contrary to the development plan and, at least in part, the NPPF.

Other Matters Related to Principle

- 7.1.47. As set out above, it is noted that the occupancy restriction conditions are likely to have been breached at the site. However, no case has been made by the applicant that these breaches have occurred for a sufficient time for any breaches to have become lawful and no Certificate of Lawfulness has been applied for to this effect. Consequently, it is not known that there is a fallback position to afford any weight in the assessment of this application.

7.1.48. Summary in Relation to the Principle of the Variation of Conditions

For the reasons set out above, the relaxation of the conditions that currently exist would be contrary to the development plan. The harms arising from this will be considered below and weighed against the benefits of supporting the applications within a planning balance assessment.

7.2. **Heritage**

- 7.2.1. Any planning application for development which will affect a listed building or its setting must be assessed in accordance with the requirements of section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires a local planning authority to have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest which it possesses.

- 7.2.2. The NPPF states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan.
- 7.2.3. There are heritage assets within the general locality near to the site but these would not be directly impacted upon by the proposal, this includes the Grade II listed buildings at Connetts Farm, Trouts Farm and Palm Trees Holiday Park. Any impacts on the setting would be limited to that caused by additional activity in the area arising from the additional usage of the site. In this instance, and having had regard to the Council's obligations pursuant to the Planning (Listed Building and Conservation Areas Act) 1990, it is considered that the additional activity would not be harmful to the aural setting of those heritage assets and, therefore, there would be no conflict with Policy DM32 of the Local Plan or the heritage section of the NPPF. Due to the distance between the site and the Grade II* listed Shurland Hall and the arrangement of that site relative to the highways that would be affected by the additional use, the proposed increased activity is not considered to impact on the setting of that listed building.

7.3. **Ecology**

- 7.3.1. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by Policies CP7 and DM28 of the Local Plan, which relates to the protection of sites of international conservation importance including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar Sites.

Protected habitats

- 7.3.2. Section 40 of the Natural Environment and Rural Communities Act (2006) states "*For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England*" and "*A public authority which has any functions exercisable in relation to England must from time to time consider what action the authority can properly take, consistently with the proper exercise of its functions, to further the general biodiversity objective.*" Furthermore, the NPPF states that 'the planning system should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity.' The NPPF states that 'if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with

less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.’

- 7.3.3. In terms of the Local Plan, Policy DM28 sets out that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.
- 7.3.4. The site is in proximity to the Swale Special Protection Area (SPA) and Ramsar site and the Medway Estuary and Marshes SPA and Ramsar site and Outer Thames Estuary SPA. The sites are designated because they provide important habitats for wintering, migratory and breeding waders, seabirds, waterfowl and other birds (the qualifying features). Their conservation objectives are to maintain or restore their integrity by maintaining or restoring the extent, distribution, structure, function and supporting processes of the habitats of the qualifying features, the population of each of the qualifying features, and the distribution of the qualifying features within the site.
- 7.3.5. Increased visits and recreational use by occupiers within proximity to the habitats sites are likely to disturb the qualifying features. This can affect their ability to feed, rest, and nesting, constituting Likely Significant Effects upon them. Though the magnitude of Likely Significant Effects would be dependent upon occupancy rates, this proposal would result in greater occupation of the site for a temporary period, within a distance of habitats sites where it is identified there would likely be increased visits from occupiers, with Likely Significant Effects, upon the qualifying features. A strategic package of measures to mitigate the effects of recreational pressure and disturbance are set out in the Thames, Medway and Swale Strategic Access Management and Monitoring Strategy. This is based upon a costed tariff, to fund mitigation measures for each unit or scheme. To effectively mitigate the Likely Significant Effects, the contributions must be secured, and mitigation undertaken prior to occupation.
- 7.3.6. In response to this application Natural England have confirmed that the proposal would impact upon the integrity of the habitats sites and qualifying features, if un-mitigated. This is also supported by the KCC Ecologist. Any increase in the occupation period, even on a temporary basis would mean there would be some effects and, as such, proportionate mitigation needs to be secured.
- 7.3.7. As with any planning application, the request for financial contributions needs to be scrutinised in accordance with Regulation 122 of the Community Infrastructure Regulations 2010 (which were amended in 2014). These stipulate that an obligation can only be a reason for granting planning permission if it is necessary, related to the development and reasonably related in scale and kind. Whilst it is unusual to seek planning obligations from a temporary planning permission, for the reasons given above it is considered that it would meet all of the applicable tests to do so in this case. To make this proportionate, the amount of contribution would need to be reflective of the period of increased occupation and the two year duration of the temporarily increased population. Moreover, the conventional contribution needs to be reduced as it relates to two months of the relevant ‘wintering’ period. Based on the current SAMMs rate, this would amount to £2.73 per unit. For the reasons set out above, the

overall sum could fluctuate if any permission granted relates to all of the caravans at the application site or a reduced number.

- 7.3.8. At the time of preparing this report, the necessary mitigation has not been secured and, as such, there is a conflict arising with the abovementioned legislation and policies. It is, however, expected that this would be resolvable and it is clear from communications received that the applicant would be willing to address this matter. The absence or securing of mitigation has a material effect on planning balance considerations and, as such, both scenarios will be considered fully below.

On-Site Protected Species

- 7.3.9. No physical works are required and there is no basis to assume that the proposed variation of the occupancy period and other applicable restrictions would have any impact on protected species at the site.

Biodiversity Net Gain (BNG)

- 7.3.10. This application was submitted after the commencement of Mandatory Biodiversity Net Gain. However, the applicable guidance is clear that this does not apply to section 73 permissions where the original permission which the section 73 relates to was either granted before 12 February 2024 or the application for the original permission was made before 12 February 2024. That is the case here and, as such, there is no BNG requirement arising from this application.

7.4. Transport and Highways

- 7.4.1. Local Plan Policies CP2 and DM6 promote sustainable transport through utilising good design principles. They set out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm. Policy DM7 of the Local Plan requires parking provision to be in accordance with the Council's Parking SPD. The site is also reliant on the use of a designated rural lane and, as such, policy DM26 is applicable.

- 7.4.2. The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. A core principle of the NPPF is that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.”

- 7.4.3. The proposal would not increase the amount of accommodation at the site and there would be no alterations to the access to the site. Whilst the duration of the use would extend and the amount of annual vehicle movements can be expected to increase as a result, there is no reason to conclude that the extended occupancy periods would

be used at a greater intensity than the currently authorised periods. Noting that the traffic associated with the use can already occur for 10 months of the year and presumably be more intensive in the summer period, it is not considered that the additional traffic arising from the 2 month winter period would have a severe impact on traffic that would conflict with the above extract of the NPPF. Moreover, there would be no requirement to provide additional parking. The variation of the condition would not, therefore, be in conflict with the abovementioned policies.

- 7.4.4. The effect of additional traffic on living conditions of nearby residents will be considered below.

7.5. **Air Quality**

- 7.5.1. The importance of improving air quality in areas of the borough has become increasingly apparent over recent years. Legislation has been introduced at a European level and a national level in the past decade with the aim of protecting human health and the environment by avoiding, reducing or preventing harmful concentrations of air pollution.

- 7.5.2. Policy DM6 of the Local Plan sets out that development proposals will integrate air quality management and environmental quality into the location and design of, and access to development and in so doing, demonstrate that proposals do not worsen air quality to an unacceptable degree.

- 7.5.3. The NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing new/existing development from contributing to or being put at unacceptable risk from, or being adversely affected by, inter alia, unacceptable levels of air pollution. It also requires the effects of air pollution and the potential sensitivity of the area to its effects to be taken into account in planning decisions.

- 7.5.4. The Planning Practice Guidance on Air Quality (Paragraph: 005 Reference ID: 32-005-20191101) states that:

“whether air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to have an adverse effect on air quality in areas where it is already known to be poor, particularly if it could affect the implementation of air quality strategies and action plans and/or breach legal obligations (including those relating to the conservation of habitats and species). Air quality may also be a material consideration if the proposed development would be particularly sensitive to poor air quality in its vicinity.

- 7.5.5. Given that the application is a major application (being on land that is more than a hectare), an Emissions Mitigation Assessment should have been submitted. In this instance, noting that the application relates to the variation of a condition to enable what is effectively 4 months of additional occupation (two months during each of two years), with no additional built development occurring, it is considered that any air

quality impact would be limited. The site is not within or near an Air Quality Management Area and there is no reason to conclude that the proposal would have any more than a negligible impact on such an area through increased traffic occurring within those 4 months. From this basis, whilst there is a technical conflict with the Council's Air Quality and Planning - Technical Guidance and, in turn, Policy DM6, it is considered that there would not be harm to air quality arising from this conflict that would represent a sound basis to object to the temporary effect of the development. In this respect it is noteworthy that the Council's Environmental Health Officer has not raised any objection on this ground to any of the group of similar applications that are currently pending determination.

7.6. Flood Risk, Drainage and Surface Water

- 7.6.1. Policy DM21 of the Local Plan and the NPPF requires that Local Planning Authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed. Moreover, Policy DM5 indicates that flood risk can be a material consideration in assessing proposals to extend the occupancy period of holiday parks.
- 7.6.2. The site is located within Flood Zone 1 in terms of fluvial and tidal flooding. In terms of surface water flooding, the Environment Agency Flood Risk map shows very minor elements of the site as being liable to surface water flooding. In this instance, noting the nature of the application, it is considered that the application passes the sequential test as it relates to the variation of an existing permission and therefore, by default, the application could only have been submitted in respect of the land at this site. Whilst no Flood Risk Assessment has been submitted, the small pockets of surface water flooding that are likely to occur would be of such negligible scale that it is not considered that the development would be unsafe if occupied through the additional months, even noting that rainfall and ground saturation is likely to be highest at this time. The absence of a flood risk assessment is a technical conflict with the abovementioned policies and the NPPF but, taking an approach that is similar to that taken by the Inspector in appeal APP/V2255/W/24/3350524 (Ham Road, Faversham), it is considered that there would be no real-world harm arising from the proposals and no increased risk of flooding on or off site as there would be no physical development proposed.

7.7. Impact of Additional Activity on Living Conditions and Countryside Tranquillity

Existing residents

- 7.7.1. Policy DM14 of the Local Plan and the NPPF requires that new development has sufficient regard for the living conditions of neighbouring occupiers. Of specific relevance to holiday parks and their occupancy period, Policy DM5 indicates that the amenity and tranquillity of residential areas is to be safeguarded. Tranquillity, to local residents and the countryside locality in general will be considered further below. However, in relation to other matters such as light, privacy, outlook and other such

direct impact impacts, no additional impacts would be caused and so no objection is raised.

Site Occupiers

- 7.7.2. The accommodation at the site would not be altered by the proposed variation of condition. Regard is had to the current users of the site elsewhere in this report but, in terms of light, privacy, outlook, and other such direct impacts, it is not considered that there would be a worsening of conditions that would represent a ground to object to the application.

Countryside Tranquillity

- 7.7.3. In addition to the extract of Policy DM5 that is referenced above, the pre-ambles to the policy advises that one of the purposes of the limitation on the occupancy period is to retain a period of tranquillity in rural and other areas. In the recent appeal with respect to a similar proposal at Vanity Farm Camp (APP/V2255/W/24/3356382), the Inspector found that the policy is consistent with National Planning Policy Framework objectives in respect of protecting local character, seeking to strike a balance with other competing policy objectives such as in respect of economic development and tourism. This approach is also consistent with Policy ST3 which identifies that within the open countryside, development will not be permitted unless it contributes to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities. The current restriction, in part, creates a period of tranquillity that accords with this policy aim.
- 7.7.4. Whether the extended occupancy period is afforded to all of the units at the site or a smaller number to reflect the number of residents that have previously occupied the site in breach of conditions, the extended occupancy period would undermine the period of tranquillity through additional activity. Traffic, congestion, noise and tranquillity all vary according to the season and the restriction on occupancy is intended to provide local residents with a quiet period to appreciate the rural surroundings. The occupation of the application site throughout the year would bring about activity, noise and traffic in winter months that would be harmful to rural character and would clearly conflict with Policy DM5 of the Local Plan.
- 7.7.5. It is considered relevant to note that this matter has previously been tested at the site. At appeal APP/V2255/W/21/327474, the Inspector found that *“The conditions securing the closure of the appeal site during the winter months ensure that permanent residents locally are able to experience the tranquillity of the area when it is free from visitors. Their proposed removal would mean that the site would remain open during the currently closed winter months, harming this existing character by removing the respite and tranquillity during this period. In addition, if permanent residential use were allowed of the caravans, then this would make it likely that the character of the site*

would change when in occupation during the summer months.” That Inspector went on to identify longer term impacts which are not relevant to this application. The Council has also previously reached a similar view with respect to an application at the nearby Beverley Camp and an Inspector reached a similar view in relation to the appeal at Vanity Farm Camp, which is within the applicant’s wider holding. It is noted that the impact would be temporary and, therefore, different to that which was experienced in those cases. However, there would still be an impact for that period that is contrary to the aims of the development plan.

- 7.7.6. For this reason, the impact on the character of the area arising from the disturbance and the associated effect on tranquillity, would be contrary to policies ST1, ST3 and DM5 of the Local Plan and the NPPF.

7.8. Other matters

- 7.8.1. No additional built form or caravans are proposed as part of the proposed variation of condition and, as such, there would be no additional structures or items at the site. From this basis, there would not be any additional visual impact or any additional effects on open space demand or provision, trees, archaeology, erosion or contamination.
- 7.8.2. Given that the effect of the variation of the condition would be temporary, for a two year period, and only effectively have an effect for a total of 4 months across that time, it is not considered that it would be reasonable to secure any other planning obligations or community infrastructure provisions, other than that which is addressed elsewhere in this report which is required to directly mitigate an effect arising from the proposed variation of condition. For similar reasons, it is not considered that it would be reasonable to require the site to achieve renewable energy generation or energy/water efficiency improvements and, therefore, no objection is raised by Officers on the grounds that the proposed variation would not address the requirements of Policy DM19.
- 7.8.3. The applicant acknowledges and it is known that there have been periods where the conditions referred to above, potentially at this site as well as other holiday parks with comparable conditions, have been breached. This has continued to a point where it is known that some users of the holiday parks in this area have used them as the main residence. Within their Planning Statement, the applicant indicates that this could amount to 400 or more people occupying 200 or more caravans at the sites that are in their control. This application site is likely to account for a portion of that unauthorised occupation. Any under-enforcement that has occurred is not considered to be reason, in itself, to conclude that the conditions no longer serve a purpose or should be set aside for a temporary period. Enforcement is discretionary and, if any breaches are brought to the Council’s attention, in accordance with the Planning Enforcement Strategy, the Council would have choices to make around whether to enforce and, if applicable, how to enforce. The conditions that exist are considered to

meet the relevant tests of enforceability and reasonableness and, as such, these are not grounds to vary the conditions.

- 7.8.4. The applicant has indicated that options have been explored relating to limiting the breach by moving all year-round users of the wider holding into a single part of the site. However, this has been deemed to be impractical for several reasons.

Interim Policy Statement

- 7.8.5. The Full Council adopted an interim planning policy on park homes on 17 June 2020 as ‘a material consideration that will hold some weight in the consideration of applications for park home proposals’. However, the interim policy is considered to hold limited weight given that it was not progressed via the development plan process, and has not been subject to scrutiny through consultation and examination. This approach has been supported at subsequent appeals including those at Plough Leisure Caravan Park, Brookfield Park, Golden Leas Holiday Park and Estuary View Caravan Park
- 7.8.6. The interim policy sets out a list of criteria for compliance. This includes the requirement that the site is in a sustainable location with access to services and facilities, and other criteria which, in some cases the proposals would comply with but in others, it has not been demonstrated that the proposal would comply, the accommodation meeting identified standards for example. It is set out elsewhere why these specific matters are a concern in relation to this application. Therefore, given the limited weight that should be attached to this interim policy, together with the conflict in any case with its criteria, it is still considered that the application is unacceptable.

Human Rights Act and Public Sector Equality Duty (Equality Act 2010)

- 7.8.7. The applicant states at several locations within their Planning Statement that some of the users of the site have health conditions and it is noted that some will consider the caravans to be their homes. In terms of personal circumstances of the site users, the applicant has not provided any specific details. No representations have been received detailing any specific considerations that the Council is required to have regard to. The Council has a duty to have due regard to the Public Sector Equality Duty as detailed within the Equality Act 2010 and the Human Rights Act 1998.
- 7.8.8. In line with the Human Rights Act 1998, it is unlawful for a public authority to act in a way which is incompatible with a Convention right, as per the European Convention on Human Rights. The human rights impacts that are most relevant to planning are Article 1 of the First Protocol (Protection of property), Article 8 (Right to respect for private and family life) and Article 14 (Prohibition of discrimination) of the Convention.
- 7.8.9. Where the peaceful enjoyment of someone’s home and/or their private life is adversely affected, their Article 8 and/or Article 1 of the First Protocol rights may be engaged. The loss of other forms of property (e.g. business premises) may engage rights under

Article 1 of the First Protocol. These rights are both what are known as ‘qualified rights’, that is, they are not absolute rights but involve some form of balancing exercise between the rights of the state to take various steps and the rights of the individual or other affected body/organisation.

7.8.10. In the case of Article 8 rights, the interference must be in accordance with law and be considered necessary in the interests of national security, public safety or the economic well-being of the country, for the prevention of crime/disorder, for the protection of health/morals or for the protection of the rights and freedoms of others

7.8.11. In the case of *RLT Built Environment Ltd v Cornwall Council* (a judicial review from 2016), the Court drew out a number of points concerning how to approach the loss of a home in the context of the planning process. The points set out by the Court were as follows:

I. Article 8 does not give a right to a home, or to a home in any particular place.

II. However, where someone has a home in a particular dwelling, it may interfere with the article 8 rights of him and/or his family to require him/them to move.

III. Whilst those rights demand “respect”, they are of course not guaranteed. In this context, as much as any other, the public interest and/or the rights and interests of others may justify interference with an individual’s article 8 rights.

IV. Where article 8 rights are in play in a planning control context, they are a material consideration.

7.8.12. Any interference in such rights caused by the planning decision has to be balanced with and against all other material considerations, the issue of justification for interference with Article 8 rights effectively being dealt with by way of such a fair balance analysis.

That balancing exercise is one of planning judgment.

Article 8 rights are, of course, important: but it is not to be assumed that, in an area of social policy such as planning, they will often outweigh the importance of having coherent control over town and country planning, important not only in the public interest but also to protect the rights and freedoms of other individuals”.

7.8.13. In terms of Article 1 of the First Part, this provides as follows:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No-one shall be deprived of his possessions except in the public interest and subject to conditions provided for by law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property

in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

7.8.14. There are three key rules. The first is the principle of peaceful enjoyment of property. The second covers the deprivation of possessions and subjects it to certain conditions. The third recognises that that property can be controlled in the general interest.

7.8.15. Claims under any of the three rules need to be examined under four headings:

- I. Whether there was an interference with the peaceful enjoyment of “possessions”;*
- II. Whether the interference was “in the general interest”;*
- III. Whether the interference was “provided for by law”;*
- IV. Proportionality of the interference.*

7.8.16. In terms of assessing the proportionality of the interference, domestic case-law (Thomas v Bridgend County Borough Council in the Court of Appeal [2011], applying the European case of Bugajny), has summarised the approach as follows:

“The cases show that the issue of proportionality can be expanded into the following question:

“whether the interference with the applicants' right to peaceful enjoyment of their possessions struck the requisite fair balance between the demands of the general interest of the public and the requirements of the protection of the individual's fundamental rights, or whether it imposed a disproportionate and excessive burden on them.” (Bugajny [...] para 67).”

7.8.17. Article 14 of the Convention deals with the requirement for Convention freedoms to be available to all on a non-discriminatory basis. Article 14 is not a free-standing right in the same way as the other Articles that are mentioned above.

7.8.18. In line with the Public Sector Equality Duty (‘PSED’) the Council must have due regard to the need to eliminate discrimination and other forms of less favourable treatment such as harassment and victimisation, and to advance equality of opportunity and foster good relations as between persons who share a protected characteristic and persons who do not share it. The PSED is set out in section 149 of the Equality Act 2010. A protected characteristic for these purposes is age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. Advancing equality will amongst other measures remove or minimise disadvantages suffered by people due to their protected characteristic and take steps to meet the needs of people from protected groups where these are different from the needs of other people.

7.8.19. In planning terms, the potential impacts of a proposal on an individual or on groups of individuals should be addressed by the decision-maker as a material consideration. In balancing this against other material considerations, the decision-maker should also

ensure that they give due weight to what is required by their statutory duties, including the requirements of the PSED.

- 7.8.20. If planning permission were refused, then occupation of the units at the site would be restricted to the existing 10 month period that is defined by the permission and in alignment with development plan policy. The occupiers would be required to vacate their units for most of January and all of February each year and would only be permitted to use the units for holiday/recreational use.
- 7.8.21. In terms of Article 8 rights (that is, the right to respect for the home and private life), the right is engaged by virtue of the continued inability to use the homes on the park for most of January and February in each of the two years. If the conditions are correctly followed, the occupiers will be required to find alternative accommodation. The question is whether the interference with the rights of affected individuals can be considered proportionate and necessary and so able to be justified under the second limb of Article 8. This involves weighing the interference against other material considerations in order to arrive at a fair balance between the interests of the individual and the interests of the community as a whole.
- 7.8.22. Development plan policy does not support year-round occupation of the Borough's holiday parks. Condition 2 of the effective planning permission aligns with this and the conditions that are in effect also require the caravans to be used for holiday and recreational use only, preventing the caravans being occupied as a sole or main residence. The occupants of the site would be required to move out of their park homes for at least two months of each year and would not be able to use the homes as a sole or main residence. Officers acknowledge that this could be disruptive or highly disruptive for those affected
- 7.8.23. Some groups are likely to be more sensitive than others to displacement. The proportion of the occupiers of the site that might consider themselves to fall within these groups has not been made clear but, based on the applicant's submissions, including but not limited to the incident record that has been provided at Appendix 5 of the Applicant's Statement, it is considered appropriate to proceed on the basis that this would affect some persons with protected characteristics.
- 7.8.24. Taking into account the nature of the impact on the existing occupiers, officers consider the benefits of resisting unplanned residential development in an unsustainable location and protecting the rural character of this part of Sheppey, which is in the public interest, would outweigh any interference with the rights of the individual under Article 8.
- 7.8.25. As regards Article 1 of the First Protocol rights in relation to residential occupiers, officers have proceeded for the purposes of assessing this application on the basis that this right is engaged by the temporary displacement from the caravans on the site each year and the restriction on occupation of the caravans as a sole or main residence. That interference can be regarded as being in the general interest, with the operation of the planning system being a legitimate interest of the state

- 7.8.26. Refusing a planning application has different implications to taking enforcement action. Whilst a refused planning application does not resolve a situation or provide comfort, neither does it, in itself, cause or require the cessation of the unauthorised use. In this case the granting of planning permission would provide certainty for residents for a 2-year period, but it would not be until positive action to require the removal of residents takes place that the Council would be responsible for making persons homeless. There would be options open to the Council in relation to enforcement. It is considered that the proportionality of refusing a planning application as opposed to taking enforcement action has to be a consideration in this case, particularly in light of the limited period of respite that would be afforded to occupiers. In this respect, the implication of the Human Rights Act is considered to be different to an application relating to the permanent use of a site or a decision whether to take enforcement action.
- 7.8.27. In officers' assessment, taking account of the nature of the impact on residential occupiers, the proposed mitigation measures and the public benefits of the scheme, a fair balance is arrived at between the protection of the rights of affected individuals and the interests of the wider community and a disproportionate or excessive burden would not be imposed.

7.9. **Planning Balance – Benefits and Harm**

- 7.9.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.9.2. The amended restrictions would enable harm to tranquillity. The proposal would also be contrary to the authorised use and allocation of the site as a holiday park, thereby undermining its intended use as a driver of tourism and the associated economic activity that derives from tourism, which is important to the local economy. For these reasons and due to the site being located in the countryside, the proposal is contrary to the development plan Settlement Strategy. Therefore, the application conflicts with policies ST1, ST3, ST6, CP1, CP2, DM3, DM4 and DM5 of the Local Plan. Moreover, whilst it would be resolvable, the proposal fails to mitigate its impact on designated habitat sites, which conflicts with policy ST1, CP7, DM14 and DM28 of the Local Plan. Therefore, while no objection is raised on the basis of the application of other policies, the development plan as a whole indicates that planning permission should be refused.
- 7.9.3. The NPPF is a material consideration and as the Council are unable to demonstrate a 5-year supply of housing land, paragraph 11.d of the NPPF is engaged. This states the following:

“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.”

- 7.9.4. In this case, as per part (i) and as a result of the impact on designated habitats not being mitigated, the application of policies that protect areas or assets of particular importance do provide a strong reason for refusing the development. Paragraph 195 of the NPPF also clarifies that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site.
- 7.9.5. However, proceeding on the basis that this is resolvable if the proposal was acceptable in all other respects, it is considered that it is sensible to undertake an assessment on the basis of the habitats issue being addressed. In such circumstances, it would need to be considered whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This assessment is carried out below.

Benefits

- 7.9.6. The primary benefit is that the proposal would provide year-round accommodation for people that are understood to have become reliant on the accommodation at the site, many of whom it is indicated would not have alternative accommodation immediately available to them. Formally allowing the accommodation to be used on a year-round basis and not as holiday accommodation would avoid a potential situation where people could be made homeless if the site owners decide to comply with the conditions which should have been complied with previously.
- 7.9.7. The proposal would also provide a temporary boost to housing supply as, if the conditions are relaxed, the caravans could be considered temporary accommodation which can be counted towards a 5 year housing land supply. This would however represent a temporary boost which would be reversed in 2 years time and, as such, does not represent a substantive solution to the Council's inability to demonstrate a five year housing land supply.

Harm

- 7.9.8. In the same way that the abovementioned housing supply benefit would be temporary, the harms caused would be temporary.
- 7.9.9. For reasons set out above, the temporary proposal would conflict with the Settlement Strategy and represent an unsustainable form of development in a countryside location.
- 7.9.10. The relaxation of the conditions would effectively enable a temporary change of use that would be contrary to the development plan. The site is allocated as a holiday park and it is expected that the site should be used in such a way that generates economic activity throughout the local area. Whilst it is noted that the applicant's case is that the site does not function as a holiday park, the potential to achieve tourism activity through the use of the site would be temporarily lost.
- 7.9.11. A reason for the occupancy period being 10 months is to create a period of tranquillity. Albeit it would only be for a temporary period and it is understood that activity has been occurring in breach of the conditions (at this site and others) which would have undermined this objective, it is considered that formally allowing this activity to occur would cause harm to tranquillity and materially and unacceptably change the character of the area, for that temporary period.

Planning Balance (excluding the impact on protected habitats for the reason set out at 7.9.5)

- 7.9.12. Excluding the impact on protected habitats for the reason set out at 7.9.5 and applying the 'tilted balance' on the basis that the protected habitats issue can be easily resolved, it is still considered that the harm arising from the impact of the development and the associated conflict with paragraphs 88 and 187 of the NPPF would significantly and demonstrably outweigh the benefits of the proposal. The proposal is, therefore, contrary to the NPPF when taken as a whole. The proposal is also contrary to the development plan when it is taken as a whole for the reasons that are set out above. Having regard to other material planning considerations, including the housing needs of people that have been using the site, and weighing those factors against the harms that have been identified and the conflict with national policy and the development plan, it is considered that planning permission should be refused.

Planning Balance (including the impact on protected habitats for the reason set out at 7.9.5)

- 7.10. Including the impact on protected habitats for the reason set out at 7.9.5 makes the balancing exercise far simpler. The unmitigated impact on protected habitats would provide a strong reason for the refusal of the application and, therefore, the NPPF would indicate, even more strongly, that planning permission should be refused.
- 7.11. **Conclusion**

- 7.11.1. For the reasons given above, the development plan indicates that planning permission should be refused and other material considerations, including the NPPF, do not indicate that a different decision should be reached. Consequently, it is recommended that the application is refused on the grounds of the impact on tranquillity, the impact on tourism and the rural economy, the conflict with the development plan settlement strategy and due to the lack of a SAMMS contribution.
- 7.11.2. In considering the application, account has been taken of the information included with the application submission, the National Planning Policy Framework and the Development Plan, and all other material considerations including representations made including the views of statutory and non-statutory consultees and members of the public.

7.12. **Recommendation**

- 7.12.1. Refuse the application for the following reasons:

7.13. **Reasons for refusal**

1. The effect of the application would be to, temporarily, formalise the removal of accommodation from being available for use for tourism purposes and enable the site to be put to residential use. This is contrary to the purposes of the allocated holiday park and would cause harm to the local economy to which tourism is an important contributor. Moreover, the proposal would cause harm to the tranquillity and character of the locality. Furthermore, the proposal would be contrary to the Settlement Strategy for the Borough of Swale and the Isle of Sheppey Area Strategy by enabling a residential use to occur in a countryside location that is remote from the nearest settlements where a good range of services are available, that lacks the prospect of residents being able to integrate with the existing communities and is served by limited access to public transport to services, thereby resulting in a car dependent population. Having had regard to all other material considerations and having given consideration to whether any alternative conditions would be able to make the development acceptable, the proposal is, considered, unacceptable and contrary to Policies ST1, ST3, ST6, CP1, CP2, DM3, DM4, DM5 and DM14 of Bearing Fruits 2031 - The Swale Borough Local Plan 2017; and the National Planning Policy Framework
2. The proposed development will create potential for recreational disturbance to the Swale Special Protection Area and fails to provide adequate mitigation against that potential harm. The development would therefore affect the integrity of this designated European site, and would be contrary to the aims of policies ST1, CP7, DM5 and DM28 of Bearing Fruits 2031 - The Swale Borough Local Plan 2017; and the National Planning Policy Framework



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3.7 REFERENCE NO -- 25/503391/FULL		
PROPOSAL -- Section 73 - Application for removal of conditions 2, 3, and 4 (to allow year-round residential occupancy of caravans for a temporary period until 31 December 2027) pursuant to SW/12/0115 for - Variation of condition (i) of the permission granted under NK/8/49/57 to allow chalets & caravans to be used between 1st March & 3rd January.		
SITE LOCATION -- Eastchurch Holiday Camp Fourth Avenue Eastchurch ME12 4EW		
RECOMMENDATION Delegate to the Head of Planning to refuse planning permission.		
APPLICATION TYPE Full – Section 73.		
REASON FOR REFERRAL TO COMMITTEE - The Head of Planning considers it to be in the public interest for the application to be determined by the Planning Committee.		
Case Officer – Demetri Prevatt		
WARD Sheppey East	PARISH/TOWN COUNCIL Eastchurch	APPLICANT Kent Holdco Ltd AGENT Laister Planning
DATE REGISTERED – 01/09/2025		TARGET DATE - 01/12/2025
BACKGROUND PAPERS AND INFORMATION: - 5061-353 -- Site Location Plan; - Covering Letter -- Prepared by Laister Planning Ltd. (08.08.2025); and - Planning Statement -- Prepared by Laister Planning Ltd. (08.08.2025). The full suite of documents submitted and representations received pursuant to the above application are available via the link below: https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=T0U1RUTYKLF00		

1. SITE LOCATION AND DESCRIPTION

- 1.1. The Eastchurch Holiday Camp is a 1.0ha rectangle-shaped holiday park located on the southeast side of First Avenue, which is an access road running through the large cluster of holiday parks located to the northeast of Eastchurch. The site is situated centrally within the collection of holiday parks surrounded entirely by other holiday parks. Eastchurch Holiday Camp currently appears to be vacant for the most part but was historically comprised of fifty-six (56) caravan plots. It is one of the eight (8) individual holiday parks that are controlled by the Applicant and combine to form the larger Kent Parks site.

- 1.2. Kent Parks is comprised of Brookside Leisure Park, Cliff Cottage Chalet Park, Eastchurch Holiday Camp, Elmhurst Caravan Park, Pleasant View Caravan Park, Shurland Dale Holiday Park (North Site - Formerly Bramley Park), Shurland Dale Holiday Park (South Site), and Sunnymead Caravan Park. These eight (8) parks are adjacent to each other and share both ancillary facilities and operation services. The ancillary amenities and facilities include a convenience store (currently closed), children's playgrounds, laundrette facilities, outdoor amenity spaces, office space for the management company, two (2) reception buildings, and two (2) clubhouses with their own arcade, bar, event space, restaurant, and swimming pool.
- 1.3. The Kent Parks site is located to the northeast of Eastchurch outside of the build-up area boundaries of the Tier 4 rural local service centre. It is accessible from the rest of the Isle of Sheppey via Warden Road, which leads to an internal road network comprised of First, Second, Third and Fourth Avenues. Some of the properties neighbouring the site are residential in nature, some are agricultural units or open countryside, with the northeast coastline being within walking distance to the north. The site's proximity to the coastline means that parts of the Kent Parks site is within the Coastal Change Management Area and Erosion Zone 2, but the designated area does not include this site.
- 1.4. The entire Kent Parks site is located within the impact risk zones of both the Sheppey Cliffs and Foreshore Sites of Special Scientific Interest (SSSI) and the Swale SSSI. Similarly, the site is within the 6.0km buffer zones of the Swale RAMSAR site and Special Protect Area (SPA), as well as the 6.0km buffer zone of the Outer Thames Estuary SPA.
- 1.5. In regard to other relevant planning constraints, the entire Kent Parks site is located within an area safeguarded for Brickearth. The site has no areas of flood risk.
- 1.6. The list provided allow notes the planning constraints for the site.
- Agricultural Land Classification: Grade 3
 - Built-Up Area Boundary: Outside
 - Flood Zone: 1
 - Grade II* Listed Building: Shurland Castle
 - Grade II Listed Buildings: Connetts, Fletcher Battery, and Trouts (Nearby)
 - Great Crested Newt: Green Zone
 - Holiday Park: Within
 - KMWLP - Safeguarded Area: Brickearth Swale Areas
 - Lower Medway Internal Drainage Board
 - National Character Area: Greater Thames Estuary
 - Rural Lane: Near to
 - The Medway Estuary and Marshes RAMSAR Site: Within Zone of Influence
 - The Medway Estuary and Marshes SPA: Within Zone of Influence
 - The Outer Thames Estuary SPA: Within 6.0km Buffer Zone
 - The Sheppey Cliffs and Foreshore SSSI Risk Zone: Within
 - The Swale RAMSAR Site: Within 6.0km Buffer Zone

- The Swale SPA: Within 6.0km Buffer Zone
- The Swale SSSI Risk Zone: Within

2. PLANNING HISTORY

- 2.1. SW/12/0115 -- Variation of condition (i) of the permission granted under NK/8/49/57 to allow chalets & caravans to be used between 1st March & 3rd January.

Conditionally Granted -- 02.04.2012.

- 2.2. NK/8/49/57 -- Holiday Camp layout.

Conditionally Granted

Other Relevant Applications and Appeal Decisions.

- 2.3. Whilst it is essential that all cases are considered on their own merits, it is also appropriate for Local Planning Authorities to act consistently and have regard to the outcome of other appeals as material considerations, particularly where it might inform the manner in which policies are interpreted and applied. Other comparable applications and appeals relating to the use of holiday parks on a year-round basis received since January 2020 include the following:

- 2.4. Beverley Camp, Warden Road, Eastchurch.

Application 22/505778/FULL – Refused

Retrospective application for change of use from a holiday park (10 months occupancy) for the siting of 21no. residential retirement park homes for use all year round.

- 2.5. Shurland Dale Holiday Park, Warden Road, Eastchurch

20/505317/FULL – Refused

Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1525, to allow the caravan park to open/be occupied for 12 months per year as a holiday park.

20/505304/FULL – Refused

Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1042, to allow the caravan park to open/be occupied for 12 months per year as a holiday park.

- 2.6. Vanity Farm Camp, Leysdown Road, Leysdown

Application 22/505752/FULL – Refused

Section 73 - Application for variation of condition 2 (to allow use of the holiday park on a year-round basis) pursuant to SW/11/1608 for - Variation of condition (i) of planning

permission NK/8/50/51 to allow occupation of the site for 10 months (1st March to 2nd January).

Appeal APP/V2255/W/24/3356382 – Dismissed

Application 21/505773/FULL - Approved

Section 73 - Application for a temporary variation of condition 2 (occupancy restriction) pursuant to application SW/11/1608, to allow occupancy of the chalet/caravans from the 02/01/2022 to 28/02/2022 (after which the park will revert back to a 10 month occupancy restriction).

Applications 20/505526/FULL, 20/503803/FULL and 20/502453/FULL approved a similar temporary permission at individual units 1, 85, 77 Vanity Farm Camp.

A similar temporary variation was approved at land adjoining Vanity Farm and now part of Harts Park under the terms of application 21/505699/FULL and a further application at Harts Park for a similar temporary change was approved under 21/505692/FULL.

2.7. Brookside Park, First Avenue, Eastchurch, Sheppey

Application 20/504175/FULL – Refused

Section 73 application to permit permanent year round residential use of caravans - removal of conditions 2 (occupancy restriction) and condition 3 (occupancy restriction) imposed on planning permission reference SW/11/1521

Appeal APP/V2255/W/21/3274740 – Dismissed.

2.8. Golden Leas Holiday Park, Bell Farm Lane, Minster on Sea

Application 20/503267/FULL – Refused

Section 73 application to vary condition 2 of planning permission ref SW/11/1588 to permit permanent year round residential use of 20no. caravans (age restricted to over 55s) as identified by drawing no. 4348-510 (The remainder of the site to continue in use for the stationing of caravans as holiday accommodation and for a maximum 10 month period each year).

Appeal APP/V2255/W/21/3279116 – Dismissed.

2.9. Estuary View Caravan Park, Bell Farm Lane, Minster on Sea

Application 20/503268/FULL – Refused

Section 73 - Application to permit permanent year round residential use of caravans - Removal of Conditions 2 (occupancy restriction), 3 (occupancy restriction) and 4 (compliance with schedule of requirements) imposed on planning permission reference SW/12/0195.

Appeal APP/V2255/W/21/3279125 - Dismissed

2.10. Ives Holiday Camp, Park Avenue, Leysdown

Application 20/502813/FULL – Refused.

Section 73 - Application to permit permanent year round residential use of caravans - removal of condition 2 (occupancy restriction), 3 (occupancy restriction) and 4 (occupancy restriction) imposed on planning permission 19/502752/FULL for retention of existing dwelling and change of use of land to a holiday caravan park.

2.11. Plough Leisure Caravan Park, Plough Road, Minster on Sea

Application 20/502811/FULL – Refused

Section 73 - Application to permit permanent year round residential use of caravans (age restricted to over 55s) for the land outlined in red on plan PL-LOC - removal of condition 2 (occupancy restriction), 3 (occupancy restriction) and 4 (occupancy restriction) imposed on planning permission SW/12/0024

Appeal APP/V2255/W/21/3277288 – Dismissed

20/505401/FULL – Approved

Section 73 - Application for a temporary variation of condition 2 (occupancy restriction) pursuant to application SW/12/0024, to allow occupancy of the caravans and chalets on the park during January and February 2021 (after which the park will revert back to a 10 month holiday occupancy restriction).

2.12. Hollybush Farm Caravan Park, Oak Lane, Minster-on-sea

22/500510/FULL – Approved

Section 73 - Application for temporary variation of condition 2 (occupancy restriction) pursuant to application SW/11/1587, to allow occupancy of the chalets/caravans from the 02/01/2022 to 28/02/2022 (after which the park will revert back to a 10-month occupancy restriction).

2.13. Sheerness Holiday Park, Halfway Road, Minster-on-sea

21/506564/FULL – Refused

Section 73 - application for Variation of condition 2 (occupancy restriction) of SW/12/0080 to allow the caravan park to open/be occupied for 12 months per year as a holiday park. (Resubmission of 20/505387/FULL).

As detailed in the description, similar application 20/505387/FULL was refused.

2.14. Central Beach Caravan Park, Grove Avenue, Leysdown

21/506563/FULL – Refused

Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1522, to allow the caravan park to open/be occupied for 12 months per year as a holiday park. (Resubmission of 20/505388/FULL).

2.15. Ashcroft Caravan Park, Plough Road, Eastchurch

21/506558/FULL – Refused

Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1044, to allow the caravan park to open/be occupied for 12 months per year as a holiday park. (Resubmission of 20/505316/FULL).

As detailed in the description, similar application 20/505316/FULL was refused.

2.16. Seafields Caravan Park, First Avenue, Eastchurch

21/506426/FULL – Approved

Section 73 - Application for variation of condition 2 (occupancy restriction) pursuant to application SW/11/1284, to allow the caravan park to open/occupied for additional 2 months in 2022 (January and February) on a temporary basis.

2.17. Copperfield Holiday Park, Fourth Avenue, Eastchurch

20/505905/FULL – Approved

Section 73 - Application for a temporary variation of condition 2 (occupancy restriction) pursuant to application SW/11/1432, to allow occupancy of the caravans and chalets on the park during January and February 2021 (after which the park will revert back to a 10 month holiday occupancy restriction).

3. PROPOSED DEVELOPMENT

3.1. The application, submitted under the terms of Section 73 of the Town and Country Planning Act, is seeking an amendment to the conditions imposed on Planning Permission ref. SW/12/0115 which granted permission for “Variation of condition (i) of the permission granted under NK/8/49/57 to allow chalets & caravans to be used between 1st March & 3rd January.”.

3.2. The amendment would temporarily enable year-round occupation of the caravans located within the holiday park for a period ending on 31.12.2027 and enable a relaxation of the nature of the occupation, through the re-wording of Conditions 2, 3 and 4.

3.3. Since the amendment would only affect the occupancy allowed by the extant Planning Permission and its conditions, no physical alterations or amended drawings are required. The only changes would be to the relevant existing conditions that are copied below.

Condition 2 -- Allowable Period of Occupation

No caravan / chalet shall be occupied except between 1st March and 2nd January in the following calendar year, and no caravan shall be occupied unless there is assigned agreement between the owners or operators of the Park and all caravan owners within the application site, stating that:

- a) The caravans / chalets are to be used for holiday and recreational use only and shall not be occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence; and
- b) No caravan / chalet shall be used as a postal address; and
- c) No caravan / chalet shall be used as a residence for registering, claiming or receipt of any state benefit; and
- d) No caravan / chalet shall be occupied in any manner, which shall or may cause the occupation thereof, to be or become a protected tenancy within the meaning of the Rent Acts 1968 and 1974; and
- e) If any caravan / chalet owner is in breach of the above clauses their agreement will be terminated and/or not renewed upon the next expiry of their current lease or licence.

On request, copies of the signed agreement[s] shall be provided to the Local Planning Authority.

Grounds: In order to prevent the caravans from being used as a permanent place of residence, an in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.

Condition 3 -- Signed Agreement

Any caravan that is not the subject of a signed agreement pursuant to Condition 2 shall not be occupied at any time.

Grounds: In order to prevent the caravans / chalets from being used as a permanent place of residence, an in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.

Condition 4 -- Operation Management

The owners or operators of the Park shall at all times operate the Park strictly in accordance with the terms of the Schedule appended to this decision notice.

Grounds: In order to prevent the caravans from being used as a permanent place of residence, an in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.

Schedule

The park operator must:

1. Ensure that all caravan / chalet users have a current signed agreement covering points (a) to (e) in condition 2 of the planning permission; and
2. Hold copies of documented evidence of the caravan / chalet users' main residence and their identity; this may comprise of utility bills, Council Tax bill, passport, driving licence or similar document; and
3. On request, provide copies of the signed agreement[s] to the Local Planning Authority; and

4. Require caravan / chalet users to provide new documentation if they change their main residence; and

5. Send all written communications to the main residence of the caravan / chalet user; and

6. Not allow postal deliveries to the caravan / chalet or accept post on behalf of the chalet users at the park office; and

7. Ensure that each caravan / chalet is to be used for holiday use only and that no chalet is occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence, of the user or occupant; and

8. Adhere to a code of practice as good as or better than that published by the British Homes and Holiday Parks Association.

4. REPRESENTATIONS

4.1. A single round of consultation has been undertaken, during which letters were sent to neighbouring occupiers. A notice was displayed at the application site and the application was advertised in the local newspaper. Full details of representations are available online.

4.2. Eastchurch Parish Council strongly objected to the application on the following grounds:

Comments	Report reference
Unsustainable location in rural area with limited services, forcing reliance on private transport, contrary to the NPPF (paragraphs 7 to 11)	See Paragraph 7.1.12
Impact on tourism contrary to the NPPF (paragraph 84)	See Paragraphs 7.1.40 to 7.1.43
Housing development that is not planned.	See Paragraphs 7.1.32 to 7.1.39
Conflict with Policies B6, B7, E1, E6 and E19 of the former local plan.	Regard has been had to the equivalent policies of the current local plan in the below assessment.
Detailed some of the content of the existing conditions and suggest that the conditions would undermine decisions and policies.	Noted.
Lack of infrastructure for permanent residents.	See Paragraph 7.8.2
The accommodation is unsuitable for permanent living.	See Paragraph 7.1.38

A precedent would be set for other holiday parks.	Any future application would be considered on its own merits.
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5. CONSULTATIONS

- 5.1. There has been one (1) round of consultation for consultees
- 5.2. **KCC Flood and Water Management** -- No Comments.
- 5.3. **KCC Ecological Advice Service (KCC EAS)** -- No objection on the condition that the Applicant provides a proportional financial contribution to the SAMMS.
- 5.4. **SBC Economy & Regeneration:** The Economy and Regeneration team are ordinarily supportive of all tourism related developments in the borough. However, the application to extend the occupation months at the holiday parks in question, would lead to a loss of income generated by visitors to the island in both high and low seasons. It will also reduce the variety of accommodation available for visitors to choose from as many of the caravans will default to being full time residential properties. There is limited accommodation of the same type, on offer elsewhere in the borough and it would therefore be beneficial to maintain the holiday stock available on the Isle of Sheppey.
- 5.5. **SBC Housing** -- The Housing team has engaged regularly with representatives from Kent Parks, who have provided information indicating that a number of occupants are residing in the holiday parks as their permanent homes. This is in breach of the existing planning consents, which they have acknowledged and have sought to work with the Council to resolve the issue. It remains unclear whether the accommodation on these sites meets the standards required under the Mobile Homes Act, and therefore may not be suitable for permanent residential use.

In response to the ongoing issues, the Council's Homelessness Prevention Team has conducted on-site drop-in surgeries to offer advice and support to residents at risk of homelessness.

Historically, the annual closure of caravan parks across the Isle of Sheppey has led to a notable increase in demand for Housing Options services. In the previous year, 55 households approached the Housing Options team due to caravan park closures. Of these, 12 households were specifically from Kent Parks sites. So far this year, 23 households have approached the service. Of these, 11 households were specifically from Kent Parks sites. It is important to note that this year's figures are likely to rise as we approach the winter period, when park closures typically peak.

Should this level of presentation continue or increase, it would place significant pressure on the Housing Options service to deliver statutory duties, including the provision of advice, assessments, and sourcing suitable accommodation. This would also result in substantial financial implications for the Council, particularly in relation to the cost of temporary accommodation.

- 5.6. **Mid-Kent Environmental Protection** -- No comments.

- 5.7. **Environment Agency (EA)** -- No Comments.
- 5.8. **Natural England (NE)** -- Providing that the appropriate assessment concludes that the measures can be secured[with sufficient certainty] as planning conditions or obligations by your authority ,and providing that there are no other likely significant effects identified (on this or other protected sites) which require consideration by way of appropriate assessment, Natural England is likely to be satisfied that your appropriate assessments will be able to ascertain with sufficient certainty that there will be no adverse effect on the integrity of the European Site from recreational pressure in view of the site's conservation objectives. In this scenario, Natural England is unlikely to have further comment regarding the Appropriate Assessment, in relation to recreational disturbance.
- 5.9. **Lower Medway Internal Drainage Board (LMIDB)** -- No Comments.
- 5.10. **Southern Water** -- No objections.
- 5.11. **Kent Police** -- No Comments (Outside of Scope)

6. DEVELOPMENT PLAN POLICIES

Bearing Fruits 2031: The Swale Borough Council Local Plan 2017 (the Local Plan)

- ST1 Delivering sustainable development in Swale
- ST2 Development targets for jobs and homes 2014-2031
- ST3 The Swale settlement strategy
- ST4 Meeting the Local Plan development targets
- ST6 The Isle of Sheppey area strategy
- CP1 Building a strong, competitive economy
- CP2 Promoting sustainable development
- CP3 Delivering a wide choice of high quality homes
- CP4 Requiring good design
- CP5 Health and wellbeing
- CP6 Community facilities and services to meet local needs
- CP8 Conserving and enhancing the historic environment
- DM3 The rural economy
- DM4 New holiday parks or extensions to existing parks
- DM5 The occupancy of holiday parks
- DM6 Managing transport demand and impact
- DM7 Vehicle parking
- DM14 General development criteria
- DM19 Sustainable design and construction
- DM21 Water, flooding and drainage
- DM26 Rural Lanes
- DM28 Biodiversity and geological conservation
- DM32 Development involving listed buildings

Supplementary Planning Guidance/Documents -

Landscape Character Assessment and Biodiversity Appraisal (LCA&BA), 2011.

Parking Standard Supplementary Planning Document, 2020.

Air Quality and Planning Technical Guidance, 2024.

Strategic Access Management and Monitoring Strategy (SAMMS), 2014

National Planning Policy Framework (the NPPF)**National Planning Practice Guidance (NPPG)**

Kent Mineral and Waste Local Plan 2024-39 (KM&WLP), 2025 & the Kent Mineral Sites Plan (KMSP), 2020.

7. ASSESSMENT

The main considerations involved in the assessment of the application are:

- Principle
- Heritage
- Ecology
- Transport and Highways
- Air Quality
- Impact of Additional Activity on Living Conditions and Countryside Tranquillity
- Other Matters

7.1. **Principle**

7.1.1. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.

7.1.2. The NPPF provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.

Terms of Application

7.1.3. The application has sought the variation of conditions 2, 3 and 4 to enable their relaxation for a 2 year period. Depending on the approach that is taken, conditions could be imposed to either make the effect of any permission temporary or the conditions could be varied to set out the limitations that exist for two years and the conditions that would then be applicable thereafter.

7.1.4. In the event that the complete relaxation of conditions 2, 3 and 4 for a two year period is not found to be acceptable, consideration should be had to whether alternative conditions could be imposed to make a development acceptable. In this regard, it is

noted that paragraph 4.3 of the applicant's Planning Statement sets out that they would be happy to discuss limitations relating to the number of caravans that are able to be occupied, the new and varied occupancy periods and leasing/licensing arrangements. An assessment will be made in relation to the entire relaxation of the conditions for a two year period and the potential to impose alternative conditions.

Development Plan – Settlement Strategy

- 7.1.5. Policy ST1 states that development proposals will accord with the Local Plan Settlement Strategy. The site is located outside the built-up area boundaries that exist within the Swale Borough.
- 7.1.6. The Settlement Strategy is set out at Policy ST3 and, as far as it is relevant to this application, it states that “At locations in the open countryside, outside the built-up area boundaries shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.”
- 7.1.7. The part of the exception that relates to the NPPF can be considered further below but, regardless of any conclusion that is reached in that respect, for reasons that will be set out below, the proposal would not enhance “the intrinsic value, *landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities*”. Therefore, the proposal is contrary to the Settlement Strategy.
- 7.1.8. Policy CP2 states that “*new development will be located in accordance with Policy ST1 to Policy ST7....which minimise the need to travel for employment and services and facilitate sustainable transport.*” The site is located outside the settlement boundary and does not accord with Policy ST1 and ST3 as set out above. Whilst there is no new built development, the altered usage of the site would be new and, as such, the policy CP2 is considered to be applicable and conflicted with.
- 7.1.9. Policy CP4 states that development should “*make safe connections physically and visually both to and within developments, particularly through using landscape design and open space to retain and create green corridors for pedestrians, cyclists and biodiversity.*” Policy CP2 also states that development should “*achieve alternative access to all services through promoting access to sustainable forms of transport particularly bus, cycling and rail transport and improving interchange between them from the earliest stages of development.*”
- 7.1.10. Policy DM6 requires that “developments demonstrate that opportunities for sustainable transport modes have been taken up.” It also states that “*The location, design and layout of development proposals will demonstrate that priority is given to the needs of pedestrians and cyclists, including the disabled, through the provision of safe routes which minimise cyclist/pedestrian and traffic conflict within the site and*

which connect to local services and facilities [and that] access to public transport is integrated into site design and layout where appropriate.”

- 7.1.11. Policy DM14 states that development will “Achieve safe vehicular access, convenient routes and facilities for pedestrians and cyclists, enhanced public transport facilities and services.”
- 7.1.12. The site is distant from the nearest bus stops and the site is remote from Eastchurch which is served by limited facilities for residents. From this basis, whilst there is a limited level of access to public transport, those connections are distant and provide a service of limited coverage. Whilst occupiers of the site might cycle, services would be limited and/or distant from the site and, therefore, are unlikely to be regularly cycled to. Therefore, it is considered inevitable that the majority of people at the site will be reliant on private modes of transport. This is true for lawful tourism users of the site and year-round occupiers of the site. However, it is considered that residents would have a different travel pattern and, as such, residential uses should be directed to sites better served by services and facilities capable of meeting their day-to-day needs. Whilst noting the difference between this temporary application and other applications being for the permanent relaxation of the conditions, this finding is consistent with other recent appeal decisions within the vicinity and it is considered that the conflict with the abovementioned policies would arise whether the use is permanent or temporary.

Development Plan – Holiday Parks

- 7.1.13. The site is allocated in the Local Plan Proposals Map as a Holiday Park. Policy DM4 addresses the provision of new holiday parks, the extension of holiday parks and the provision of new or improved facilities within holiday parks. The content of that policy is not considered to be instructive for the assessment of this application. However, the pre-ambles to that policy provides some context for the consideration of applications related to holiday parks, stressing that a core principle of the NPPF is to proactively drive and support sustainable economic development. It goes on to state that “*Holiday parks provide direct employment and their users support shops, pubs, restaurants and visitor attractions. There can also be other social benefits in that they give work in areas where little alternative employment exists. The changing nature and flexibility of the leisure market and the higher aspirations of customers today are leading to leisure providers continually developing new concepts to respond to consumer needs and aspirations.*”
- 7.1.14. Local Plan Policy DM5 addresses the occupancy of holiday parks and reads as follows:

In order to ensure a sustainable pattern of development and to protect the character of the countryside, planning permission will not be granted for the permanent occupancy of caravans and chalets. Where it can be demonstrated that higher quality standards of holiday accommodation can be secured, planning permission will be

granted for proposals to extend the occupancy of holiday parks between 1 March and 2 January the following year (a 10 month occupancy), provided that:

- 1. The site is not at risk of flooding, unless, exceptionally, applications accompanied by a Flood Risk Assessment (FRA) satisfactorily demonstrating that the proposal would result in no greater risk to life or property and where an appropriate flood evacuation plan would be put in place;*
- 2. The amenity and tranquillity of the countryside and residential areas are safeguarded;*
- 3. The proposals are in accordance with Policies DM 22 and DM 23 relating to the coast and the coastal change management area; and*
- 4. Where located adjacent or in close proximity to the Special Protection Areas (SPA), an assessment has been undertaken to determine the level of disturbance to over-wintering birds and identified mitigation measures, where appropriate.*
- 5. The extension of occupancy is subject to planning conditions safeguarding the holiday accommodation from being used as sole or main residences, as set out in Appendix 2.*

- 7.1.15. The pre-amble to the policy highlights the history of most of the holiday parks, noting that 8 month (and eleven days at Christmas and New Year) occupancy restrictions existed in most cases. The supporting text indicates that *“the limited occupancy period was imposed to ensure that these holiday parks were not used as permanent (and sometimes sub-standard) housing (many of which would be in poorly accessible parts of the Borough) and to protect the character of the rural area. Limited occupation also afforded the opportunity to retain a period of tranquillity in rural and other areas. In areas at risk of flooding, permanent occupation over the winter period could also result in risk to life.”*
- 7.1.16. The supporting text highlighted that *“to give more scope and incentive to enable modernisation and upgrading to take place, the Council considers that there will be occasions when a 10 month occupancy period will be acceptable, which will, in turn, deliver tourism benefits and support for the local economy.”* It goes on to state that Policy DM5 sets out the parameters within which applications to extend occupancy of holiday parks to a 10 month period will be permitted before stating that *“Permanent occupation will continue to be resisted.”*

Condition 2 – Occupancy Period.

- 7.1.17. This application does not seek the permanent occupancy of the accommodation at the site as the year round occupancy is proposed for a temporary period of 2 years. From this basis, the effect of the application would not be directly contrary to the first sentence of Policy DM5 as it has been written.
- 7.1.18. However, the application would enable the extension of the occupancy period that is defined in the remainder of the first part of Policy DM5. The policy should be read in the context of the history of the holiday park sites and the earlier iterations of the development plan which imposed an 8 month (plus 11 days at Christmas and New Year in some cases) occupancy limitation. Paragraph 7.1.27 of the Local Plan states

that “to give more scope and incentive to enable modernisation and upgrading to take place, the Council considers that there will be occasions when a 10 month occupancy period will be acceptable.” Whilst the Policy allowed for an increased occupancy period up to 10 months, subject to conditions, there is no indication that this would be able to be extended to 12 months in any circumstances, on a temporary or permanent basis.

- 7.1.19. From this basis, the proposed relaxation of the condition to enable year round occupation, albeit only for two years, would be contrary to the objectives of Policy DM5. Having regard to the potential to impose alternative conditions, any occupancy exceeding 10 months would be contrary to the aim of the policy. It is clear from the application submissions that the intention is to enable occupiers to be resident at the site on a year round basis and, therefore, any mid-ground occupancy period would be contrary to the intentions of the applicant.

Conditions 2, 3 and 4 – Main Residence Restriction and Record Keeping.

- 7.1.20. Turning to the criteria that are set out within Policy DM5, it is considered relevant that the assessment of these matters is only applicable in the context of the abovementioned occupancy limitation being complied with. Notwithstanding this, the criteria give a direction as to the key material considerations for this application. The matters addressed by criteria 1 to 4 of Policy DM5 are addressed in the relevant sections below.
- 7.1.21. For reasons that will be set out below, the variation of conditions in effect at the site would cause the use of the site to conflict with Criteria 2. There would be no conflict with criteria 1. In relation to Criteria 4, there is grounds to object where no mitigation provisions are secured but it is expected that this would be able to be resolved. Again, this will be considered further below.
- 7.1.22. With respect to Criteria 3, the site is outside the coastal erosion zone and the Coastal Change Management area. Therefore, no objection is raised on those grounds.
- 7.1.23. In respect of Criteria 5, the planning conditions set out at Appendix 2 of the Local Plan are fundamentally the same as appear within existing conditions 2, 3 and 4 that currently apply to the permitted use at the site, as detailed above. The application seeks to vary these conditions. By varying these conditions, the development would no longer accord with Policy DM5 and the limitations that are fundamental to holiday parks to benefit from 10 month occupancy periods. Consequently, an application to use the site without complying with those conditions is in conflict with Policy DM5.
- 7.1.24. Amongst other relaxations, the primary effect of this would be to enable the accommodation at the site to be used as a persons primary residence. This is corroborated by the Applicant’s Planning Statement which states that many of the existing occupants do not have an alternative permanent address and would be made homeless if the application site was made uninhabitable during the two-month closed season. This means that these caravans are the sole residence for these occupants

and the relaxation of the subject conditions and year-round occupation of these sole residences would constitute their operation, for a two-year period, as dwellings rather than as tourist accommodation. This is entirely contrary to the designation of the site within a holiday park and the associated policies that are discussed above.

Temporary Effect of Variation

- 7.1.25. The application seeks the relaxation of conditions for a temporary period and, as such, the application is considered to be seeking what is tantamount to a temporary planning permission, which is enabled by Section 72 of the Act. Planning Practice Guidance states that *“Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period.”*
- 7.1.26. The application is not being advanced as a ‘trial run.’ The case of the applicant is that planning circumstances might change at the end of the proposed two year period as they are seeking to advance proposals to develop the site. This is evidenced by virtue of a Screening Opinion (25/504264/ENVSCR) which has been sought for the development of this site, along with other land that is within the applicant’s control and is referenced in the planning history section above. This has been referred to as a “meanwhile use” by the applicant which is described in the Planning Practice Guidance as a temporary use of vacant land or buildings prior to any longer term proposals coming forward. The site is not vacant and so this is not directly relevant. However, whichever element of the PPG is drawn from, it is the case of the applicant that the proposal should be considered as a temporary situation until a permanent re-development of the site is brought forward.
- 7.1.27. At this stage, there can be no guarantee that the re-development of the site in the manner described would be granted planning permission. Whereas a ‘meanwhile use’ might be beneficial by bringing activity to a site that is vacant, that benefit would not arise here as, if not approved, the site would retain its lawful use and caravans would continue to be kept at the site. Conversely, putting the site to use outside the period that is defined by conditions would actively derive harm as a result of the impact on tranquillity that will be considered further below. From this basis, it is considered that negligible or very limited weight should be given to the suggestion that an alternative development might replace the existing or amended situation in the future and that no benefit would arise from the ‘meanwhile use’ of the site that is suggested by the applicant.

Number of Caravans Affected

- 7.1.28. The applicant’s submissions have addressed this application along with the other adjacent sites that are within their control. As such, site specific details are difficult to ascertain. However, it is indicated at paragraph 3.5 of the applicant’s submissions that there is a capacity of approximately 1197 units at the overall land holding and at least 200 of them have been occupied in breach of the abovementioned conditions. It

is understood that the sites within the applicant's control are not the only holiday parks where a breach of condition has taken place.

- 7.1.29. Should this and the other concurrent applications be allowed in the broadest of terms, all of the units would be able to be occupied throughout the prescribed period. This would far exceed any need to accommodate a number of the occupiers of the 200 or so caravans that have been indicated to have been occupied in breach of the restrictions previously. To allow the relaxation of the conditions for all of the caravans would not only address the existing breach that has occurred but potentially give rise to a far increased level of occupancy that would present greater issues at the end of the temporary period than would otherwise be the case. Unless precision was included in relation to the number of caravans occupied, the site could attract occupiers from other sites. That might be of benefit to enabling other sites to comply with their conditions, but it could increase the number of residents at the applicant's holding who, in 2 years time, might have an even greater expectation of being allowed to stay at the site year-round.
- 7.1.30. It is noted within the applicant's submissions that they would be willing to discuss conditions, including a condition that could restrict the number of caravans that can be occupied. Such a discussion has not occurred. However, if minded to approve, it would be necessary to discuss the number of caravans that can be occupied on this site and attempt to imbed that into a condition that meets the applicable tests. Such a condition could also attempt to secure a lower number in the second year to give the Council comfort that the applicant is working towards reducing the number of persons that occupy the site in breach of the planning conditions.
- 7.1.31. However, enforcing such a condition would be riddled with difficulties, particularly on a caravan site where (notwithstanding the comments of the applicant that many of the caravans would not be able to be moved without being damaged) should be capable of being moved. Whereas a blanket restriction on occupation is enforceable, identifying which caravans are occupied and which are not, would be inherently difficult if not virtually impossible. For example, if a limit was reached, how would a person attempting to enforce that limit know which caravan should be enforced against. A plan would be required to specifically identify which caravans would be occupied but no such plan has been submitted and there is no current way available to be able to identify specific caravans.

Housing Supply

- 7.1.32. Swale Borough Council cannot demonstrate a five year housing land supply. Therefore, where a proposal relates to the provision of housing, the approach set out at paragraph 11d) of the NPPF is applicable.
- 7.1.33. Setting aside the conflict with the development plan, caravans in C3 use are able to count towards Housing Supply, and the use of the site as housing could count towards the supply of housing within the Borough. Depending on the approach taken to the number of caravans that the relaxation would apply to, this could be any number up to

1,197 units across the applicant's overall holding, of which 56 units are at this site. However, this 'supply' would only exist for 2 years and, as it would have to be discounted within the same assessment period, such temporary accommodation is not counted in the Council's 5 year housing land supply.

- 7.1.34. It is considered that a temporary housing supply boost can only be given limited weight as a planning benefit. It is not effectively addressing any housing shortfall as that shortfall would return in 2 years and it is not considered that caravan accommodation, which the applicant recognises is in poor condition, is a sustainable solution to addressing housing needs. It is recognised that a need is derived from the historic breaches of the conditions at the site and that the NPPF indicates that a sufficient amount and variety of land should come forward for housing, where it is needed and that the needs of groups with specific housing requirements are addressed.
- 7.1.35. The applicant identifies that the site and the wider land holding has been used to accommodate people on a year-round basis. This has been in breach of the abovementioned conditions and could be liable to enforcement action. This has created a situation where year-round occupiers are present and reliant on the accommodation. To refuse this application would result in it continuing to be the case that year round occupation would be in conflict with the abovementioned conditions and a breach of planning control, with harms that are identified elsewhere in this report. It is therefore considered that the future 'need' for housing that has been generated by the past breaching of planning conditions at the site needs to be weighed against the harms and conflict with national and local planning policies.
- 7.1.36. The applicant has indicated that occupiers would be made to leave the site from January 2026. Some of those occupiers might have no alternative accommodation available and, as such, could present themselves to the Council as homeless. The needs of the local population should be a material consideration and will be considered. The duty on the Council to accommodate any persons that are caused to be homeless could create considerable difficulties for the Council and it is a key component of the applicant's case that allowing the application would avoid implications for other services of the Council, primarily the Council's Housing Team who would potentially see a sharp increase in demand, with the cost and labour implications.
- 7.1.37. In this regard, it is considered relevant that the Council is not hereby deciding whether or not to serve a Planning Enforcement Notice or a Breach of Condition Notice at the site. The decision of the applicant to comply with planning conditions if this application is refused, which should be a fundamental requirement, would be a decision for the applicant. The problem that may or is likely to exist around persons being homeless is a consequence of the unlawful occupation of the site that is understood to have been enabled by the applicant's predecessors. Accommodating people that might not have alternative accommodation can be viewed as a benefit of granting planning permission. However, this could also be achieved by not enforcing the conditions or by the chosen form of enforcement.

- 7.1.38. A factor that is considered to be important to this assessment is the quality of the accommodation at the site. The pre-ambles to Policies DM4 and DM5 identify that some of the Borough's accommodation of this type is of poor quality and in need of improvement. Consistent with this, the applicant's own Planning Statement sets out that some of the accommodation at the site is of poor quality, with their submission stating that the caravans are old and liable to break if moved. In the absence of any form of detailed assessment of the quality of the accommodation, it is considered appropriate to give weight to a visual inspection of the site which suggests that much of the accommodation is not likely to accord to modern standards. Whilst it is expected that occupiers will value this accommodation and it is noted that reference has been made to the existence of a community spirit at the site and the holding in general, it is considered that the reliance on living accommodation that might not accord with modern standards should not be considered to be sustainable. In this regard and giving consideration to the potential to use a condition that limits the number of caravans, there is no evidence available to suggest whether those residents in the greatest need would have access to the best-kept caravans or those at the other end of the quality and maintenance range.
- 7.1.39. The proposal being a 'meanwhile use' is considered to weigh against the suggestion that the proposal would address a homelessness situation from occurring. It is acknowledged that the temporary availability of accommodation could provide a short-term solution to the existing hidden homelessness. However, it is integral to this that the applicant intends to bring the current situation to an end and re-develop the site. This would not address the situation in the medium term and, whilst occupiers would have a 2 year opportunity to find alternative accommodation, they would equally have 2 years to become more imbedded at the site and, potentially, develop a hope or expectation that a further year round occupancy will be provided in the future. There can be no certainty that the future proposals at the site would (or would not) be available to the current occupiers at the site and therefore, even noting that the temporary permission would afford those residents additional time to find alternative accommodation, it is likely that they would have to leave the site in due course in any case. Whilst a relocation management plan to guide occupiers to suitable accommodation prior to the end of the temporary period might have been able to be explored and been the subject of a condition, it is considered that there could be little comfort or certainty that such a plan would be effective and, in the circumstances that have been detailed by the applicant, it is not clear how a phased reduction of occupiers at the site would be able to be achieved. The proposal would be as likely to postpone any problems rather than address them.

Tourism and Economic Development Considerations.

- 7.1.40. Policy CP1 of the Local Plan seeks to safeguard or enhance Swale's 'Principal Tourism Assets' and to consolidate or widen the tourism potential of the borough. Holiday parks are listed under the borough's 'Principal Tourism Assets' and the supporting text sets out that these should be protected from inappropriate development. Policy ST6 seeks to support the existing tourism offer on the Isle of Sheppey and the supporting text to this policy emphasises the importance of tourism

to the economy of the Isle of Sheppey. Policy DM3 promotes rural tourism and makes clear that residential development should not be permitted at the expense of rural employment. The supporting text to policy DM4 states that holiday parks provide direct employment and support shops, pubs, restaurants and visitor attractions.

- 7.1.41. Whilst the comments of the applicant relating to the manner in which the site has not operated as a conventional holiday destination are noted, to formally change the use of the site (even for a temporary period) would compound the loss of holiday accommodation and reduce the tourism offer that exists and is of significance to the local economy. This would be contrary to the above policies that seek to safeguard and enhance tourism and to prevent the use of holiday parks as a person's main residence.
- 7.1.42. No detailed information has been provided to demonstrate why the accommodation is not suitable for holiday use and there is no evidence that demonstrates insurmountable difficulties to use the units as holiday accommodation. The residential use of the site would undermine the clear strategies in the adopted local plan to promote and increase the tourism offer in the borough and on the Isle of Sheppey, where tourism plays a vital role in the local economy. In this regard the change of use is contrary to policies CP1, ST6, DM3, DM4 and DM5 of the Local Plan.
- 7.1.43. It is considered that these policies are consistent with the NPPF as paragraph 88 of that document states that planning decisions should enable “...*the sustainable growth and expansion of all types of business in rural areas and sustainable rural tourism and leisure developments which respect the character of the countryside*”.

Other Conditions

- 7.1.44. As set out above, regard has to be had to the use of other conditions. In this case, it is considered that any period of occupancy beyond 10 months would conflict with policy DM5, albeit potentially to a lesser degree.
- 7.1.45. Similarly, whilst a limitation on the number of units able to be occupied would reduce the scale of conflict, any occupancy contrary to the current conditions would inherently be in conflict with the development plan.
- 7.1.46. There are other materials considerations to consider in relation to this case, which will be addressed below. However, it must be a crucial consideration that the variation of condition, as sought or any comparable version of that amendment, would cause the development at the site to be contrary to the development plan and, at least in part, the NPPF.

Other Matters Related to Principle

- 7.1.47. As set out above, it is noted that the occupancy restriction conditions are likely to have been breached at the site. However, no case has been made by the applicant that these breaches have occurred for a sufficient time for any breaches to have become

lawful and no Certificate of Lawfulness has been applied for to this effect. Consequently, it is not known that there is a fallback position to afford any weight in the assessment of this application.

7.1.48. Summary in Relation to the Principle of the Variation of Conditions

For the reasons set out above, the relaxation of the conditions that currently exist would be contrary to the development plan. The harms arising from this will be considered below and weighed against the benefits of supporting the applications within a planning balance assessment.

7.2. **Heritage**

- 7.2.1. Any planning application for development which will affect a listed building or its setting must be assessed in accordance with the requirements of section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires a local planning authority to have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest which it possesses.
- 7.2.2. The NPPF states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan.
- 7.2.3. There are heritage assets within the general locality near to the site but these would not be directly impacted upon by the proposal, this includes the Grade II listed buildings at Connetts Farm, Trouts Farm and Palm Trees Holiday Park. Any impacts on the setting would be limited to that caused by additional activity in the area arising from the additional usage of the site. In this instance, and having had regard to the Council's obligations pursuant to the Planning (Listed Building and Conservation Areas Act) 1990, it is considered that the additional activity would not be harmful to the aural setting of those heritage assets and, therefore, there would be no conflict with Policy DM32 of the Local Plan or the heritage section of the NPPF. Due to the distance between the site and the Grade II* listed Shurland Hall and the arrangement of that site relative to the highways that would be affected by the additional use, the proposed increased activity is not considered to impact on the setting of that listed building.

7.3. **Ecology**

- 7.3.1. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife

and Countryside Act 1981. This is endorsed by Policies CP7 and DM28 of the Local Plan, which relates to the protection of sites of international conservation importance including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar Sites.

Protected habitats

- 7.3.2. Section 40 of the Natural Environment and Rural Communities Act (2006) states *“For the purposes of this section “the general biodiversity objective” is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England”* and *“A public authority which has any functions exercisable in relation to England must from time to time consider what action the authority can properly take, consistently with the proper exercise of its functions, to further the general biodiversity objective.”* Furthermore, the NPPF states that ‘the planning system should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity.’ The NPPF states that ‘if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.’
- 7.3.3. In terms of the Local Plan, Policy DM28 sets out that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.
- 7.3.4. The site is in proximity to the Swale Special Protection Area (SPA) and Ramsar site and the Medway Estuary and Marshes SPA and Ramsar site and Outer Thames Estuary SPA. The sites are designated because they provide important habitats for wintering, migratory and breeding waders, seabirds, waterfowl and other birds (the qualifying features). Their conservation objectives are to maintain or restore their integrity by maintaining or restoring the extent, distribution, structure, function and supporting processes of the habitats of the qualifying features, the population of each of the qualifying features, and the distribution of the qualifying features within the site.
- 7.3.5. Increased visits and recreational use by occupiers within proximity to the habitats sites are likely to disturb the qualifying features. This can affect their ability to feed, rest, and nesting, constituting Likely Significant Effects upon them. Though the magnitude of Likely Significant Effects would be dependent upon occupancy rates, this proposal would result in greater occupation of the site for a temporary period, within a distance of habitats sites where it is identified there would likely be increased visits from occupiers, with Likely Significant Effects, upon the qualifying features. A strategic package of measures to mitigate the effects of recreational pressure and disturbance are set out in the Thames, Medway and Swale Strategic Access Management and Monitoring Strategy. This is based upon a costed tariff, to fund mitigation measures for each unit or scheme. To effectively mitigate the Likely Significant Effects, the contributions must be secured, and mitigation undertaken prior to occupation.

- 7.3.6. In response to this application Natural England have confirmed that the proposal would impact upon the integrity of the habitats sites and qualifying features, if un-mitigated. This is also supported by the KCC Ecologist. Any increase in the occupation period, even on a temporary basis would mean there would be some effects and, as such, proportionate mitigation needs to be secured.
- 7.3.7. As with any planning application, the request for financial contributions needs to be scrutinised in accordance with Regulation 122 of the Community Infrastructure Regulations 2010 (which were amended in 2014). These stipulate that an obligation can only be a reason for granting planning permission if it is necessary, related to the development and reasonably related in scale and kind. Whilst it is unusual to seek planning obligations from a temporary planning permission, for the reasons given above it is considered that it would meet all of the applicable tests to do so in this case. To make this proportionate, the amount of contribution would need to be reflective of the period of increased occupation and the two year duration of the temporarily increased population. Moreover, the conventional contribution needs to be reduced as it relates to two months of the relevant 'wintering' period. Based on the current SAMMs rate, this would amount to £2.73 per unit. For the reasons set out above, the overall sum could fluctuate if any permission granted relates to all of the caravans at the application site or a reduced number.
- 7.3.8. At the time of preparing this report, the necessary mitigation has not been secured and, as such, there is a conflict arising with the abovementioned legislation and policies. It is, however, expected that this would be resolvable and it is clear from communications received that the applicant would be willing to address this matter. The absence or securing of mitigation has a material effect on planning balance considerations and, as such, both scenarios will be considered fully below.

On-Site Protected Species

- 7.3.9. No physical works are required and there is no basis to assume that the proposed variation of the occupancy period and other applicable restrictions would have any impact on protected species at the site.

Biodiversity Net Gain (BNG)

- 7.3.10. This application was submitted after the commencement of Mandatory Biodiversity Net Gain. However, the applicable guidance is clear that this does not apply to section 73 permissions where the original permission which the section 73 relates to was either granted before 12 February 2024 or the application for the original permission was made before 12 February 2024. That is the case here and, as such, there is no BNG requirement arising from this application.

7.4. Transport and Highways

- 7.4.1. Local Plan Policies CP2 and DM6 promote sustainable transport through utilising good design principles. They set out that where highway capacity is exceeded and/ or safety

standards are compromised proposals will need to mitigate harm. Policy DM7 of the Local Plan requires parking provision to be in accordance with the Council's Parking SPD. The site is also reliant on the use of a designated rural lane and, as such, policy DM26 is applicable.

- 7.4.2. The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. A core principle of the NPPF is that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.”

- 7.4.3. The proposal would not increase the amount of accommodation at the site and there would be no alterations to the access to the site. Whilst the duration of the use would extend and the amount of annual vehicle movements can be expected to increase as a result, there is no reason to conclude that the extended occupancy periods would be used at a greater intensity than the currently authorised periods. Noting that the traffic associated with the use can already occur for 10 months of the year and presumably be more intensive in the summer period, it is not considered that the additional traffic arising from the 2 month winter period would have a severe impact on traffic that would conflict with the above extract of the NPPF. Moreover, there would be no requirement to provide additional parking. The variation of the condition would not, therefore, be in conflict with the abovementioned policies.
- 7.4.4. The effect of additional traffic on living conditions of nearby residents will be considered below.

7.5. **Air Quality**

- 7.5.1. The importance of improving air quality in areas of the borough has become increasingly apparent over recent years. Legislation has been introduced at a European level and a national level in the past decade with the aim of protecting human health and the environment by avoiding, reducing or preventing harmful concentrations of air pollution.
- 7.5.2. Policy DM6 of the Local Plan sets out that development proposals will integrate air quality management and environmental quality into the location and design of, and access to development and in so doing, demonstrate that proposals do not worsen air quality to an unacceptable degree.
- 7.5.3. The NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing new/existing development from contributing to or being put at unacceptable risk from, or being adversely affected by, inter alia, unacceptable levels of air pollution. It also requires the effects of air pollution

and the potential sensitivity of the area to its effects to be taken into account in planning decisions.

- 7.5.4. The Planning Practice Guidance on Air Quality (Paragraph: 005 Reference ID: 32-005-20191101) states that:

“whether air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to have an adverse effect on air quality in areas where it is already known to be poor, particularly if it could affect the implementation of air quality strategies and action plans and/or breach legal obligations (including those relating to the conservation of habitats and species). Air quality may also be a material consideration if the proposed development would be particularly sensitive to poor air quality in its vicinity.

- 7.5.5. Given that the application is a major application (being on land that is more than a hectare), an Emissions Mitigation Assessment should have been submitted. In this instance, noting that the application relates to the variation of a condition to enable what is effectively 4 months of additional occupation (two months during each of two years), with no additional built development occurring, it is considered that any air quality impact would be limited. The site is not within or near an Air Quality Management Area and there is no reason to conclude that the proposal would have any more than a negligible impact on such an area through increased traffic occurring within those 4 months. From this basis, whilst there is a technical conflict with the Council's Air Quality and Planning - Technical Guidance and, in turn, Policy DM6, it is considered that there would not be harm to air quality arising from this conflict that would represent a sound basis to object to the temporary effect of the development. In this respect it is noteworthy that the Council's Environmental Health Officer has not raised any objection on this ground to any of the group of similar applications that are currently pending determination.

7.6. **Flood Risk, Drainage and Surface Water**

- 7.6.1. Policy DM21 of the Local Plan and the NPPF requires that Local Planning Authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed. Moreover, Policy DM5 indicates that flood risk can be a material consideration in assessing proposals to extend the occupancy period of holiday parks.
- 7.6.2. The site is located within Flood Zone 1 in terms of fluvial and tidal flooding and is not subject to any areas of surface water flooding. Therefore, no objection is raised on the grounds of flood risk

7.7. **Impact of Additional Activity on Living Conditions and Countryside Tranquillity**

Existing residents

- 7.7.1. Policy DM14 of the Local Plan and the NPPF requires that new development has sufficient regard for the living conditions of neighbouring occupiers. Of specific

relevance to holiday parks and their occupancy period, Policy DM5 indicates that the amenity and tranquillity of residential areas is to be safeguarded. Tranquillity, to local residents and the countryside locality in general will be considered further below. However, in relation to other matters such as light, privacy, outlook and other such direct impact impacts, no additional impacts would be caused and so no objection is raised.

Site Occupiers

- 7.7.2. The accommodation at the site would not be altered by the proposed variation of condition. Regard is had to the current users of the site elsewhere in this report but, in terms of light, privacy, outlook, and other such direct impacts, it is not considered that there would be a worsening of conditions that would represent a ground to object to the application.

Countryside Tranquillity

- 7.7.3. In addition to the extract of Policy DM5 that is referenced above, the pre-ambles to the policy advises that one of the purposes of the limitation on the occupancy period is to retain a period of tranquillity in rural and other areas. In the recent appeal with respect to a similar proposal at Vanity Farm Camp (APP/V2255/W/24/3356382), the Inspector found that the policy is consistent with National Planning Policy Framework objectives in respect of protecting local character, seeking to strike a balance with other competing policy objectives such as in respect of economic development and tourism. This approach is also consistent with Policy ST3 which identifies that within the open countryside, development will not be permitted unless it contributes to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities. The current restriction, in part, creates a period of tranquillity that accords with this policy aim.
- 7.7.4. Whether the extended occupancy period is afforded to all of the units at the site or a smaller number to reflect the number of residents that have previously occupied the site in breach of conditions, the extended occupancy period would undermine the period of tranquillity through additional activity. Traffic, congestion, noise and tranquillity all vary according to the season and the restriction on occupancy is intended to provide local residents with a quiet period to appreciate the rural surroundings. The occupation of the application site throughout the year would bring about activity, noise and traffic in winter months that would be harmful to rural character and would clearly conflict with Policy DM5 of the Local Plan.
- 7.7.5. It is considered relevant to note that this matter has previously been tested at one of the site's within the applicant's control, Brookside Park. At appeal APP/V2255/W/21/327474, the Inspector found that *"The conditions securing the closure of the appeal site during the winter months ensure that permanent residents*

locally are able to experience the tranquillity of the area when it is free from visitors. Their proposed removal would mean that the site would remain open during the currently closed winter months, harming this existing character by removing the respite and tranquillity during this period. In addition, if permanent residential use were allowed of the caravans, then this would make it likely that the character of the site would change when in occupation during the summer months.” That Inspector went on to identify longer term impacts which are not relevant to this application. The Council has also previously reached a similar view with respect to an application at the nearby Beverley Camp and an Inspector reached a similar view in relation to the appeal at Vanity Farm Camp, which is within the applicant’s wider holding. It is noted that the impact would be temporary and, therefore, different to that which was experienced in those cases. However, there would still be an impact for that period that is contrary to the aims of the development plan.

- 7.7.6. For this reason, the impact on the character of the area arising from the disturbance and the associated effect on tranquillity, would be contrary to policies ST1, ST3 and DM5 of the Local Plan and the NPPF.

7.8. **Other matters**

- 7.8.1. No additional built form or caravans are proposed as part of the proposed variation of condition and, as such, there would be no additional structures or items at the site. From this basis, there would not be any additional visual impact or any additional effects on open space demand or provision, trees, archaeology, erosion or contamination.
- 7.8.2. Given that the effect of the variation of the condition would be temporary, for a two year period, and only effectively have an effect for a total of 4 months across that time, it is not considered that it would be reasonable to secure any other planning obligations or community infrastructure provisions, other than that which is addressed elsewhere in this report which is required to directly mitigate an effect arising from the proposed variation of condition. For similar reasons, it is not considered that it would be reasonable to require the site to achieve renewable energy generation or energy/water efficiency improvements and, therefore, no objection is raised by Officers on the grounds that the proposed variation would not address the requirements of Policy DM19.
- 7.8.3. The applicant acknowledges and it is known that there have been periods where the conditions referred to above, potentially at this site as well as other holiday parks with comparable conditions, have been breached. This has continued to a point where it is known that some users of the holiday parks in this area have used them as the main residence. Within their Planning Statement, the applicant indicates that this could amount to 400 or more people occupying 200 or more caravans at the sites that are in their control. This application site is likely to account for a portion of that unauthorised occupation. Any under-enforcement that has occurred is not considered

to be reason, in itself, to conclude that the conditions no longer serve a purpose or should be set aside for a temporary period. Enforcement is discretionary and, if any breaches are brought to the Council's attention, in accordance with the Planning Enforcement Strategy, the Council would have choices to make around whether to enforce and, if applicable, how to enforce. The conditions that exist are considered to meet the relevant tests of enforceability and reasonableness and, as such, these are not grounds to vary the conditions.

- 7.8.4. The applicant has indicated that options have been explored relating to limiting the breach by moving all year-round users of the wider holding into a single part of the site. However, this has been deemed to be impractical for several reasons.

Interim Policy Statement

- 7.8.5. The Full Council adopted an interim planning policy on park homes on 17 June 2020 as 'a material consideration that will hold some weight in the consideration of applications for park home proposals'. However, the interim policy is considered to hold limited weight given that it was not progressed via the development plan process, and has not been subject to scrutiny through consultation and examination. This approach has been supported at subsequent appeals including those at Plough Leisure Caravan Park, Brookfield Park, Golden Leas Holiday Park and Estuary View Caravan Park
- 7.8.6. The interim policy sets out a list of criteria for compliance. This includes the requirement that the site is in a sustainable location with access to services and facilities, and other criteria which, in some cases the proposals would comply with but in others, it has not been demonstrated that the proposal would comply, the accommodation meeting identified standards for example. It is set out elsewhere why these specific matters are a concern in relation to this application. Therefore, given the limited weight that should be attached to this interim policy, together with the conflict in any case with its criteria, it is still considered that the application is unacceptable.

Human Rights Act and Public Sector Equality Duty (Equality Act 2010)

- 7.8.7. The applicant states at several locations within their Planning Statement that some of the users of the site have health conditions and it is noted that some will consider the caravans to be their homes. In terms of personal circumstances of the site users, the applicant has not provided any specific details. No representations have been received detailing any specific considerations that the Council is required to have regard to. The Council has a duty to have due regard to the Public Sector Equality Duty as detailed within the Equality Act 2010 and the Human Rights Act 1998.
- 7.8.8. In line with the Human Rights Act 1998, it is unlawful for a public authority to act in a way which is incompatible with a Convention right, as per the European Convention on Human Rights. The human rights impacts that are most relevant to planning are

Article 1 of the First Protocol (Protection of property), Article 8 (Right to respect for private and family life) and Article 14 (Prohibition of discrimination) of the Convention.

- 7.8.9. Where the peaceful enjoyment of someone's home and/or their private life is adversely affected, their Article 8 and/or Article 1 of the First Protocol rights may be engaged. The loss of other forms of property (e.g. business premises) may engage rights under Article 1 of the First Protocol. These rights are both what are known as 'qualified rights', that is, they are not absolute rights but involve some form of balancing exercise between the rights of the state to take various steps and the rights of the individual or other affected body/organisation.
- 7.8.10. In the case of Article 8 rights, the interference must be in accordance with law and be considered necessary in the interests of national security, public safety or the economic well-being of the country, for the prevention of crime/disorder, for the protection of health/morals or for the protection of the rights and freedoms of others
- 7.8.11. In the case of *RLT Built Environment Ltd v Cornwall Council* (a judicial review from 2016), the Court drew out a number of points concerning how to approach the loss of a home in the context of the planning process. The points set out by the Court were as follows:

I. Article 8 does not give a right to a home, or to a home in any particular place.

II. However, where someone has a home in a particular dwelling, it may interfere with the article 8 rights of him and/or his family to require him/them to move.

III. Whilst those rights demand "respect", they are of course not guaranteed. In this context, as much as any other, the public interest and/or the rights and interests of others may justify interference with an individual's article 8 rights.

IV. Where article 8 rights are in play in a planning control context, they are a material consideration.

- 7.8.12. Any interference in such rights caused by the planning decision has to be balanced with and against all other material considerations, the issue of justification for interference with Article 8 rights effectively being dealt with by way of such a fair balance analysis.

That balancing exercise is one of planning judgment.

Article 8 rights are, of course, important: but it is not to be assumed that, in an area of social policy such as planning, they will often outweigh the importance of having coherent control over town and country planning, important not only in the public interest but also to protect the rights and freedoms of other individuals".

- 7.8.13. In terms of Article 1 of the First Part, this provides as follows:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No-one shall be deprived of his possessions except in the public interest and subject to conditions provided for by law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

7.8.14. There are three key rules. The first is the principle of peaceful enjoyment of property. The second covers the deprivation of possessions and subjects it to certain conditions. The third recognises that that property can be controlled in the general interest.

7.8.15. Claims under any of the three rules need to be examined under four headings:

- I. Whether there was an interference with the peaceful enjoyment of “possessions”;*
- II. Whether the interference was “in the general interest”;*
- III. Whether the interference was “provided for by law”;*
- IV. Proportionality of the interference.*

7.8.16. In terms of assessing the proportionality of the interference, domestic case-law (Thomas v Bridgend County Borough Council in the Court of Appeal [2011], applying the European case of Bugajny), has summarised the approach as follows:

“The cases show that the issue of proportionality can be expanded into the following question:

“whether the interference with the applicants' right to peaceful enjoyment of their possessions struck the requisite fair balance between the demands of the general interest of the public and the requirements of the protection of the individual's fundamental rights, or whether it imposed a disproportionate and excessive burden on them.” (Bugajny [...] para 67).”

7.8.17. Article 14 of the Convention deals with the requirement for Convention freedoms to be available to all on a non-discriminatory basis. Article 14 is not a free-standing right in the same way as the other Articles that are mentioned above.

7.8.18. In line with the Public Sector Equality Duty (‘PSED’) the Council must have due regard to the need to eliminate discrimination and other forms of less favourable treatment such as harassment and victimisation, and to advance equality of opportunity and foster good relations as between persons who share a protected characteristic and persons who do not share it. The PSED is set out in section 149 of the Equality Act 2010. A protected characteristic for these purposes is age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. Advancing equality will amongst other measures remove or minimise disadvantages suffered by people due to their protected

characteristic and take steps to meet the needs of people from protected groups where these are different from the needs of other people.

- 7.8.19. In planning terms, the potential impacts of a proposal on an individual or on groups of individuals should be addressed by the decision-maker as a material consideration. In balancing this against other material considerations, the decision-maker should also ensure that they give due weight to what is required by their statutory duties, including the requirements of the PSED.
- 7.8.20. If planning permission were refused, then occupation of the units at the site would be restricted to the existing 10 month period that is defined by the permission and in alignment with development plan policy. The occupiers would be required to vacate their units for most of January and all of February each year and would only be permitted to use the units for holiday/recreational use.
- 7.8.21. In terms of Article 8 rights (that is, the right to respect for the home and private life), the right is engaged by virtue of the continued inability to use the homes on the park for most of January and February in each of the two years. If the conditions are correctly followed, the occupiers will be required to find alternative accommodation. The question is whether the interference with the rights of affected individuals can be considered proportionate and necessary and so able to be justified under the second limb of Article 8. This involves weighing the interference against other material considerations in order to arrive at a fair balance between the interests of the individual and the interests of the community as a whole.
- 7.8.22. Development plan policy does not support year-round occupation of the Borough's holiday parks. Condition 2 of the effective planning permission aligns with this and the conditions that are in effect also require the caravans to be used for holiday and recreational use only, preventing the caravans being occupied as a sole or main residence. The occupants of the site would be required to move out of their park homes for at least two months of each year and would not be able to use the homes as a sole or main residence. Officers acknowledge that this could be disruptive or highly disruptive for those affected
- 7.8.23. Some groups are likely to be more sensitive than others to displacement. The proportion of the occupiers of the site that might consider themselves to fall within these groups has not been made clear but, based on the applicant's submissions, including but not limited to the incident record that has been provided at Appendix 5 of the Applicant's Statement, it is considered appropriate to proceed on the basis that this would affect some persons with protected characteristics.
- 7.8.24. Taking into account the nature of the impact on the existing occupiers, officers consider the benefits of resisting unplanned residential development in an unsustainable location and protecting the rural character of this part of Sheppey, which is in the public interest, would outweigh any interference with the rights of the individual under Article 8.

- 7.8.25. As regards Article 1 of the First Protocol rights in relation to residential occupiers, officers have proceeded for the purposes of assessing this application on the basis that this right is engaged by the temporary displacement from the caravans on the site each year and the restriction on occupation of the caravans as a sole or main residence. That interference can be regarded as being in the general interest, with the operation of the planning system being a legitimate interest of the state
- 7.8.26. Refusing a planning application has different implications to taking enforcement action. Whilst a refused planning application does not resolve a situation or provide comfort, neither does it, in itself, cause or require the cessation of the unauthorised use. In this case the granting of planning permission would provide certainty for residents for a 2-year period, but it would not be until positive action to require the removal of residents takes place that the Council would be responsible for making persons homeless. There would be options open to the Council in relation to enforcement. It is considered that the proportionality of refusing a planning application as opposed to taking enforcement action has to be a consideration in this case, particularly in light of the limited period of respite that would be afforded to occupiers. In this respect, the implication of the Human Rights Act is considered to be different to an application relating to the permanent use of a site or a decision whether to take enforcement action.
- 7.8.27. In officers' assessment, taking account of the nature of the impact on residential occupiers, the proposed mitigation measures and the public benefits of the scheme, a fair balance is arrived at between the protection of the rights of affected individuals and the interests of the wider community and a disproportionate or excessive burden would not be imposed.

7.9. **Planning Balance – Benefits and Harm**

- 7.9.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.9.2. The amended restrictions would enable harm to tranquillity. The proposal would also be contrary to the authorised use and allocation of the site as a holiday park, thereby undermining its intended use as a driver of tourism and the associated economic activity that derives from tourism, which is important to the local economy. For these reasons and due to the site being located in the countryside, the proposal is contrary to the development plan Settlement Strategy. Therefore, the application conflicts with policies ST1, ST3, ST6, CP1, CP2, DM3, DM4 and DM5 of the Local Plan. Moreover, whilst it would be resolvable, the proposal fails to mitigate its impact on designated habitat sites, which conflicts with policy ST1, CP7, DM14 and DM28 of the Local Plan. Therefore, while no objection is raised on the basis of the application of other policies, the development plan as a whole indicates that planning permission should be refused.

- 7.9.3. The NPPF is a material consideration and as the Council are unable to demonstrate a 5-year supply of housing land, paragraph 11.d of the NPPF is engaged. This states the following:

“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.”

- 7.9.4. In this case, as per part (i) and as a result of the impact on designated habitats not being mitigated, the application of policies that protect areas or assets of particular importance do provide a strong reason for refusing the development. Paragraph 195 of the NPPF also clarifies that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site.
- 7.9.5. However, proceeding on the basis that this is resolvable if the proposal was acceptable in all other respects, it is considered that it is sensible to undertake an assessment on the basis of the habitats issue being addressed. In such circumstances, it would need to be considered whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole This assessment is carried out below.

Benefits

- 7.9.6. The primary benefit is that the proposal would provide year-round accommodation for people that are understood to have become reliant on the accommodation at the site, many of whom it is indicated would not have alternative accommodation immediately available to them. Formally allowing the accommodation to be used on a year-round basis and not as holiday accommodation would avoid a potential situation where people could be made homeless if the site owners decide to comply with the conditions which should have been complied with previously.
- 7.9.7. The proposal would also provide a temporary boost to housing supply as, if the conditions are relaxed, the caravans could be considered temporary accommodation which can be counted towards a 5 year housing land supply. This would however represent a temporary boost which would be reversed in 2 years time and, as such,

does not represent a substantive solution to the Council's inability to demonstrate a five year housing land supply.

Harm

- 7.9.8. In the same way that the abovementioned housing supply benefit would be temporary, the harms caused would be temporary.
- 7.9.9. For reasons set out above, the temporary proposal would conflict with the Settlement Strategy and represent an unsustainable form of development in a countryside location.
- 7.9.10. The relaxation of the conditions would effectively enable a temporary change of use that would be contrary to the development plan. The site is allocated as a holiday park and it is expected that the site should be used in such a way that generates economic activity throughout the local area. Whilst it is noted that the applicant's case is that the site does not function as a holiday park, the potential to achieve tourism activity through the use of the site would be temporarily lost.
- 7.9.11. A reason for the occupancy period being 10 months is to create a period of tranquillity. Albeit it would only be for a temporary period and it is understood that activity has been occurring in breach of the conditions (at this site and others) which would have undermined this objective, it is considered that formally allowing this activity to occur would cause harm to tranquillity and materially and unacceptably change the character of the area, for that temporary period.

Planning Balance (excluding the impact on protected habitats for the reason set out at 7.9.5)

- 7.9.12. Excluding the impact on protected habitats for the reason set out at 7.9.5 and applying the 'tilted balance' on the basis that the protected habitats issue can be easily resolved, it is still considered that the harm arising from the impact of the development and the associated conflict with paragraphs 88 and 187 of the NPPF would significantly and demonstrably outweigh the benefits of the proposal. The proposal is, therefore, contrary to the NPPF when taken as a whole. The proposal is also contrary to the development plan when it is taken as a whole for the reasons that are set out above. Having regard to other material planning considerations, including the housing needs of people that have been using the site, and weighing those factors against the harms that have been identified and the conflict with national policy and the development plan, it is considered that planning permission should be refused.

Planning Balance (including the impact on protected habitats for the reason set out at 7.9.5)

- 7.9.13. Including the impact on protected habitats for the reason set out at 7.9.5 makes the balancing exercise far simpler. The unmitigated impact on protected habitats would

provide a strong reason for the refusal of the application and, therefore, the NPPF would indicate, even more strongly, that planning permission should be refused.

7.10. Conclusion

7.10.1. For the reasons given above, the development plan indicates that planning permission should be refused and other material considerations, including the NPPF, do not indicate that a different decision should be reached. Consequently, it is recommended that the application is refused on the grounds of the impact on tranquillity, the impact on tourism and the rural economy, the conflict with the development plan settlement strategy and due to the lack of a SAMMS contribution.

7.10.2. In considering the application, account has been taken of the information included with the application submission, the National Planning Policy Framework and the Development Plan, and all other material considerations including representations made including the views of statutory and non-statutory consultees and members of the public.

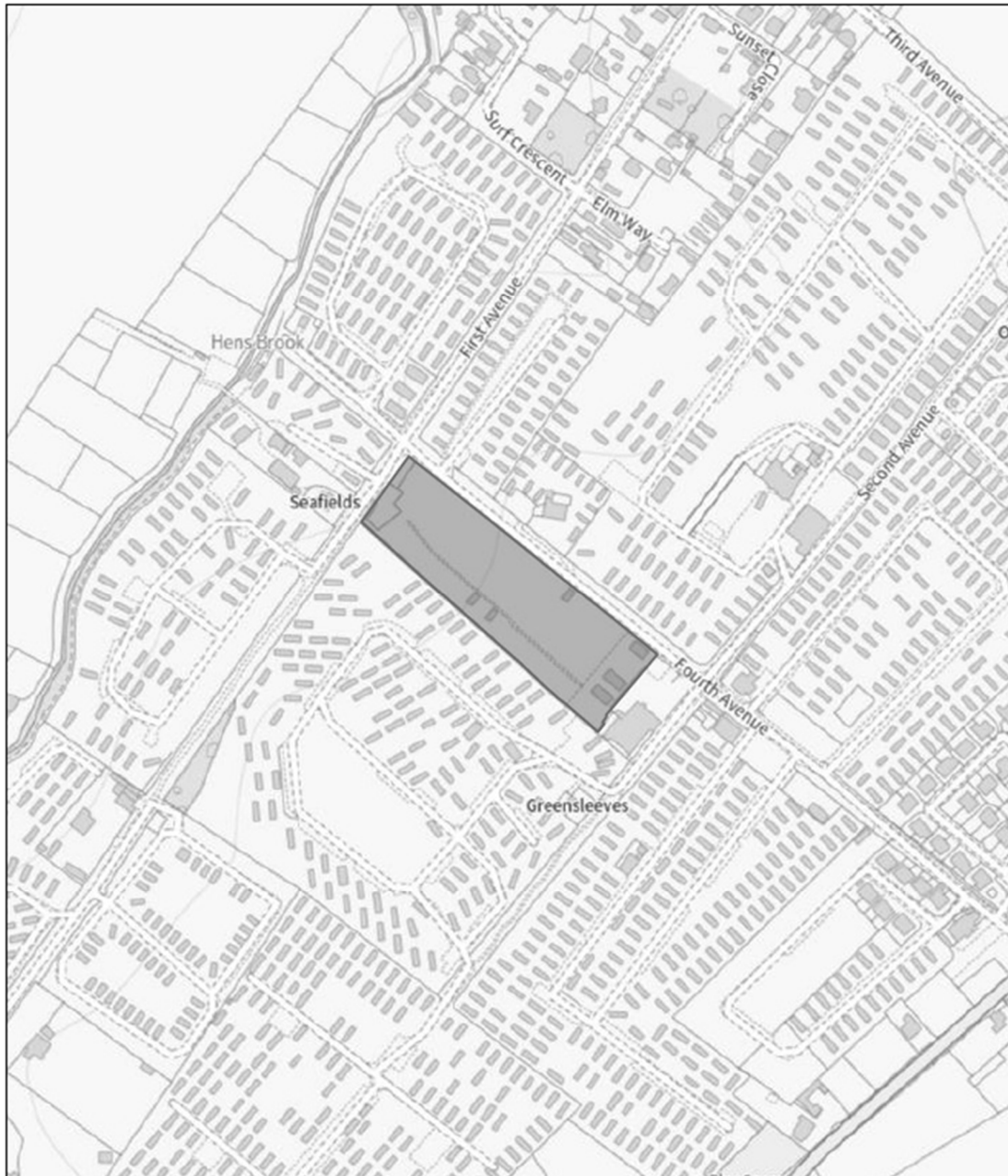
7.11. Recommendation

7.11.1. Refuse the application for the following reasons:

7.12. Reasons for refusal

1. The effect of the application would be to, temporarily, formalise the removal of accommodation from being available for use for tourism purposes and enable the site to be put to residential use. This is contrary to the purposes of the allocated holiday park and would cause harm to the local economy to which tourism is an important contributor. Moreover, the proposal would cause harm to the tranquillity and character of the locality. Furthermore, the proposal would be contrary to the Settlement Strategy for the Borough of Swale and the Isle of Sheppey Area Strategy by enabling a residential use to occur in a countryside location that is remote from the nearest settlements where a good range of services are available, that lacks the prospect of residents being able to integrate with the existing communities and is served by limited access to public transport to services, thereby resulting in a car dependent population. Having had regard to all other material considerations and having given consideration to whether any alternative conditions would be able to make the development acceptable, the proposal is, considered, unacceptable and contrary to Policies ST1, ST3, ST6, CP1, CP2, DM3, DM4, DM5 and DM14 of Bearing Fruits 2031 - The Swale Borough Local Plan 2017; and the National Planning Policy Framework

2. The proposed development will create potential for recreational disturbance to the Swale Special Protection Area and fails to provide adequate mitigation against that potential harm. The development would therefore affect the integrity of this designated European site, and would be contrary to the aims of policies ST1, CP7, DM5 and DM28 of Bearing Fruits 2031 - The Swale Borough Local Plan 2017; and the National Planning Policy Framework



3.8 REFERENCE NO - 25/503392/FULL		
PROPOSAL – Section 73 - Application for variation of condition 2, 3 and 4 (to allow year-round residential occupancy of chalets for a temporary period until 31 December 2027) pursuant to application SW/12/0118 for Variation of condition (i) of permission granted under reference NK/8/61/1824 to allow chalets to be used between 1st March & 2nd January.		
SITE LOCATION - Cliff Cottage Chalet Park Fourth Avenue Eastchurch ME12 4JN		
RECOMMENDATION Delegate to the Head of Planning to refuse planning permission.		
APPLICATION TYPE Full – Section 73.		
REASON FOR REFERRAL TO COMMITTEE - The Head of Planning considers it to be in the public interest for the application to be determined by the Planning Committee.		
Case Officer – Demetri Prevatt		
WARD Sheppey East	PARISH/TOWN COUNCIL Eastchurch	APPLICANT Kent Holdco Ltd AGENT Laister Planning
DATE REGISTERED – 01/09/2025		TARGET DATE - 27/10/2025
BACKGROUND PAPERS AND INFORMATION: - 5061-352 -- Site Location Plan; - Covering Letter -- Prepared by Laister Planning Ltd. (08.08.2025); and - Planning Statement -- Prepared by Laister Planning Ltd. (08.08.2025). The full suite of documents submitted and representations received pursuant to the above application are available via the link below: https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=T0U1SR TYKLH00		

1. SITE LOCATION AND DESCRIPTION

- 1.1. The Cliff Cottage Chalet Park is a 0.9ha rectangle-shaped holiday park located on the southeast side of First Avenue, which is an access road running through the large cluster of holiday parks located to the northeast of Eastchurch. The site is situated centrally within the collection of holiday parks surrounded entirely by other holiday parks. Cliff Cottage Chalet Park is comprised of approximately forty (40) plots and is one of the eight (8) individual holiday parks that are controlled by the Applicant and combine to form the larger Kent Parks site.

- 1.2. Kent Parks is comprised of Brookside Leisure Park, Cliff Cottage Chalet Park, Eastchurch Holiday Camp, Elmhurst Caravan Park, Pleasant View Caravan Park, Shurland Dale Holiday Park (North Site - Formerly Bramley Park), Shurland Dale Holiday Park (South Site), and Sunnymead Caravan Park. These eight (8) parks are adjacent to each other and share both ancillary facilities and operation services. The ancillary amenities and facilities include a convenience store (currently closed), children's playgrounds, laundrette facilities, outdoor amenity spaces, office space for the management company, two (2) reception buildings, and two (2) clubhouses with their own arcade, bar, event space, restaurant, and swimming pool.
- 1.3. The Kent Parks site is located to the northeast of Eastchurch outside of the build-up area boundaries of the Tier 4 rural local service centre. It is accessible from the rest of the Isle of Sheppey via Warden Road, which leads to an internal road network comprised of First, Second, Third and Fourth Avenues. Some of the properties neighbouring the site are residential in nature, some are agricultural units or open countryside, with the northeast coastline being within walking distance to the north. The site's proximity to the coastline means that parts of the Kent Parks site is within the Coastal Change Management Area and Erosion Zone 2, but the designated area does not include this site.
- 1.4. The entire Kent Parks site is located within the impact risk zones of both the Sheppey Cliffs and Foreshore Sites of Special Scientific Interest (SSSI) and the Swale SSSI. Similarly, the site is within the 6.0km buffer zones of the Swale RAMSAR site and Special Protect Area (SPA), as well as the 6.0km buffer zone of the Outer Thames Estuary SPA.
- 1.5. In regard to other relevant planning constraints, the entire Kent Parks site is located within an area safeguarded for Brickearth. The site has no areas of flood risk.
- 1.6. The list provided below notes the planning constraints for the site.
 - Agricultural Land Classification: Grade 3
 - Built-Up Area Boundary: Outside
 - Flood Zone: 1
 - Grade II Listed Buildings: Trouts Farm + Fletcher Battery (Both Nearby)
 - Great Crested Newt: Amber Zone
 - Holiday Park: Within
 - KMWLP - Safeguarded Area: Brickearth Swale Areas
 - Lower Medway Internal Drainage Board
 - National Character Area: Greater Thames Estuary
 - Rural Lane: Near to
 - The Outer Thames Estuary SPA: Within 6.0km Buffer Zone
 - The Sheppey Cliffs and Foreshore SSSI Risk Zone: Within
 - The Swale RAMSAR Site: Within 6.0km Buffer Zone
 - The Swale SPA: Within 6.0km Buffer Zone
 - The Swale SSSI Risk Zone: Within

2. PLANNING HISTORY

- 2.1. SW/12/0118 -- Variation of condition (i) of permission granted under reference NK/8/61/1824 to allow chalets to be used between 1st March & 2nd January.

Conditionally Granted on 30.03.2012.

- 2.2. NK/8/61/1824 – To develop site with Chalets for summer occupation, subject to approved layout.

Conditionally Granted

Other Relevant Applications and Appeal Decisions.

- 2.3. Whilst it is essential that all cases are considered on their own merits, it is also appropriate for Local Planning Authorities to act consistently and have regard to the outcome of other appeals as material considerations, particularly where it might inform the manner in which policies are interpreted and applied. Other comparable applications and appeals relating to the use of holiday parks received since January 2020 include the following:

- 2.4. Beverley Camp, Warden Road, Eastchurch.

Application 22/505778/FULL – Refused

Retrospective application for change of use from a holiday park (10 months occupancy) for the siting of 21no. residential retirement park homes for use all year round.

- 2.5. Shurland Dale Holiday Park, Warden Road, Eastchurch

20/505317/FULL – Refused

Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1525, to allow the caravan park to open/be occupied for 12 months per year as a holiday park.

20/505304/FULL – Refused

Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1042, to allow the caravan park to open/be occupied for 12 months per year as a holiday park.

- 2.6. Vanity Farm Camp, Leysdown Road, Leysdown

Application 22/505752/FULL – Refused

Section 73 - Application for variation of condition 2 (to allow use of the holiday park on a year-round basis) pursuant to SW/11/1608 for - Variation of condition (i) of planning permission NK/8/50/51 to allow occupation of the site for 10 months (1st March to 2nd January).

Appeal APP/V2255/W/24/3356382 – Dismissed

Application 21/505773/FULL - Approved

Section 73 - Application for a temporary variation of condition 2 (occupancy restriction) pursuant to application SW/11/1608, to allow occupancy of the chalet/caravans from the 02/01/2022 to 28/02/2022 (after which the park will revert back to a 10 month occupancy restriction).

Applications 20/505526/FULL, 20/503803/FULL and 20/502453/FULL approved a similar temporary permission at individual units 1, 85, 77 Vanity Farm Camp.

A similar temporary variation was approved at land adjoining Vanity Farm and now part of Harts Park under the terms of application 21/505699/FULL and a further application at Harts Park for a similar temporary change was approved under 21/505692/FULL.

2.7. Brookside Park, First Avenue, Eastchurch, Sheppey

Application 20/504175/FULL – Refused

Section 73 application to permit permanent year round residential use of caravans - removal of conditions 2 (occupancy restriction) and condition 3 (occupancy restriction) imposed on planning permission reference SW/11/1521

Appeal APP/V2255/W/21/3274740 – Dismissed.

2.8. Golden Leas Holiday Park, Bell Farm Lane, Minster on Sea

Application 20/503267/FULL – Refused

Section 73 application to vary condition 2 of planning permission ref SW/11/1588 to permit permanent year round residential use of 20no. caravans (age restricted to over 55s) as identified by drawing no. 4348-510 (The remainder of the site to continue in use for the stationing of caravans as holiday accommodation and for a maximum 10 month period each year).

Appeal APP/V2255/W/21/3279116 – Dismissed.

2.9. Estuary View Caravan Park, Bell Farm Lane, Minster on Sea

Application 20/503268/FULL – Refused

Section 73 - Application to permit permanent year round residential use of caravans - Removal of Conditions 2 (occupancy restriction), 3 (occupancy restriction) and 4 (compliance with schedule of requirements) imposed on planning permission reference SW/12/0195.

Appeal APP/V2255/W/21/3279125 - Dismissed

2.10. Ives Holiday Camp, Park Avenue, Leysdown

Application 20/502813/FULL – Refused.

Section 73 - Application to permit permanent year round residential use of caravans - removal of condition 2 (occupancy restriction), 3 (occupancy restriction) and 4 (occupancy restriction) imposed on planning permission 19/502752/FULL for retention of existing dwelling and change of use of land to a holiday caravan park.

2.11. Plough Leisure Caravan Park, Plough Road, Minster on Sea

Application 20/502811/FULL – Refused

Section 73 - Application to permit permanent year round residential use of caravans (age restricted to over 55s) for the land outlined in red on plan PL-LOC - removal of condition 2 (occupancy restriction), 3 (occupancy restriction) and 4 (occupancy restriction) imposed on planning permission SW/12/0024

Appeal APP/V2255/W/21/3277288 – Dismissed

20/505401/FULL – Approved

Section 73 - Application for a temporary variation of condition 2 (occupancy restriction) pursuant to application SW/12/0024, to allow occupancy of the caravans and chalets on the park during January and February 2021 (after which the park will revert back to a 10 month holiday occupancy restriction).

2.12. Hollybush Farm Caravan Park, Oak Lane, Minster-on-sea

22/500510/FULL – Approved

Section 73 - Application for temporary variation of condition 2 (occupancy restriction) pursuant to application SW/11/1587, to allow occupancy of the chalets/caravans from the 02/01/2022 to 28/02/2022 (after which the park will revert back to a 10-month occupancy restriction).

2.13. Sheerness Holiday Park, Halfway Road, Minster-on-sea

21/506564/FULL – Refused

Section 73 - application for Variation of condition 2 (occupancy restriction) of SW/12/0080 to allow the caravan park to open/be occupied for 12 months per year as a holiday park. (Resubmission of 20/505387/FULL).

As detailed in the description, similar application 20/505387/FULL was refused.

2.14. Central Beach Caravan Park, Grove Avenue, Leysdown

21/506563/FULL – Refused

Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1522, to allow the caravan park to open/be occupied for 12 months per year as a holiday park. (Resubmission of 20/505388/FULL).

2.15. Ashcroft Caravan Park, Plough Road, Eastchurch

21/506558/FULL – Refused

Section 73 - Application for Variation of condition 2 (occupancy restriction) pursuant to application SW/11/1044, to allow the caravan park to open/be occupied for 12 months per year as a holiday park. (Resubmission of 20/505316/FULL).

As detailed in the description, similar application 20/505316/FULL was refused.

2.16. Seafields Caravan Park, First Avenue, Eastchurch

21/506426/FULL – Approved

Section 73 - Application for variation of condition 2 (occupancy restriction) pursuant to application SW/11/1284, to allow the caravan park to open/occupied for additional 2 months in 2022 (January and February) on a temporary basis.

2.17. Copperfield Holiday Park, Fourth Avenue, Eastchurch

20/505905/FULL – Approved

Section 73 - Application for a temporary variation of condition 2 (occupancy restriction) pursuant to application SW/11/1432, to allow occupancy of the caravans and chalets on the park during January and February 2021 (after which the park will revert back to a 10 month holiday occupancy restriction).

3. PROPOSED DEVELOPMENT

- 3.1. The application, submitted under the terms of Section 73 of the Town and Country Planning Act, is seeking an amendment to the conditions imposed on Planning Permission ref. SW/12/0118 which granted permission for “Variation of condition (i) of permission granted under reference NK/8/61/1824 to allow chalets to be used between 1st March & 2nd January.”
- 3.2. The amendment would temporarily enable year-round occupation of the accommodation located within the holiday park for a period ending on 31.12.2027 and enable a relaxation of the nature of the occupation, through the re-wording of Conditions 2, 3 and 4.
- 3.3. Since the amendment would only affect the occupancy allowed by the extant Planning Permission and its conditions, no physical alterations or amended drawings are required. The only changes would be to the relevant existing conditions that are copied below.

Condition 2 -- Allowable Period of Occupation

No chalets shall be occupied except between 1st March and 2nd January in the following calendar year, and no chalets shall be occupied unless there is a signed agreement between the owners or operators of the Park and all caravan owners within the application site, stating that:

- a) The chalets are to be used for holiday and recreational use only and shall not be occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence; and
- b) No chalet shall be used as a postal address; and
- c) No chalet shall be used as a residence for registering, claiming or receipt of any state benefit; and

- d) No chalet shall be occupied in any manner, which shall or may cause the occupation thereof, to be or become a protected tenancy within the meaning of the Rent Acts 1968 and 1974; and
- e) If any chalet owner is in breach of the above clauses their agreement will be terminated and/or not renewed upon the next expiry of their current lease or licence.

On request, copies of the signed agreement[s] shall be provided to the Local Planning Authority.

Grounds: In order to prevent the chalets from being used as a permanent place of residence, an in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.

Condition 3 -- Signed Agreement

Any chalet that is not the subject of a signed agreement pursuant to Condition 2 shall not be occupied at any time.

Grounds: In order to prevent the caravans from being used as a permanent place of residence, an in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.

Condition 4 -- Operation Management

The owners or operators of the Park shall at all times operate the Park strictly in accordance with the terms of the Schedule appended to this decision notice.

Grounds: In order to prevent the caravans from being used as a permanent place of residence, an in pursuance of policies E1 and E6 of the Swale Borough Local Plan 2008.

Schedule

The park operator must:

1. Ensure that all chalet users have a current signed agreement covering points (a) to (e) in condition 2 of the planning permission; and
2. Hold copies of documented evidence of the caravan users main residence and their identity; this may comprise of utility bills, Council Tax bill, passport, driving licence or similar document; and
3. On request, provide copies of the signed agreement[s] to the Local Planning Authority; and
4. Require chalet users to provide new documentation if they change their main residence; and
5. Send all written communications to the main residence of the chalet user; and
6. Not allow postal deliveries to the caravan or accept post on behalf of the chalet users at the park office; and

7. Ensure that each chalet is to be used for holiday use only and that no chalet is occupied as a sole or main residence, or in any manner which might lead any person to believe that it is being used as the sole or main residence, of the user or occupant; and

8. Adhere to a code of practice as good as or better than that published by the British Homes and Holiday Parks Association.

4. REPRESENTATIONS

4.1. A single round of consultation has been undertaken, during which letters were sent to neighbouring occupiers. A notice was displayed at the application site and the application was advertised in the local newspaper. Full details of representations are available online.

4.2. Eastchurch Parish Council strongly objected to the application on the following grounds:

Comments	Report reference
Unsustainable location in rural area with limited services, forcing reliance on private transport, contrary to the NPPF (paragraphs 7 to 11)	See Paragraph 7.1.12
Impact on tourism contrary to the NPPF (paragraph 84)	See Paragraphs 7.1.40 to 7.1.43
Housing development that is not planned.	See Paragraphs 7.1.32 to 7.1.39
Conflict with Policies B6, B7, E1, E6 and E19 of the former local plan.	Regard has been had to the equivalent policies of the current local plan in the below assessment.
Detailed some of the content of the existing conditions.	Noted.
Lack of infrastructure for permanent residents.	See Paragraph 7.8.2
The accommodation is unsuitable for permanent living.	See Paragraph 7.1.38
A precedent would be set for other holiday parks.	Any future application would be considered on its own merits.

5. CONSULTATIONS

5.1. There has been one (1) round of consultation for consultees

5.2. **KCC Highways** -- No Comments.

5.3. **KCC Flood and Water Management** -- No Comments.

- 5.4. **KCC Ecological Advice Service (KCC EAS)** -- -- No objection on the condition that the Applicant provides a proportional financial contribution to the SAMMS.
- 5.5. **KCC Public Rights of Way (PROW)** -- No Comments.
- 5.6. **SBC Housing** -- The Housing team has engaged regularly with representatives from Kent Parks, who have provided information indicating that a number of occupants are residing in the holiday parks as their permanent homes. This is in breach of the existing planning consents, which they have acknowledged and have sought to work with the Council to resolve the issue. It remains unclear whether the accommodation on these sites meets the standards required under the Mobile Homes Act, and therefore may not be suitable for permanent residential use.
- In response to the ongoing issues, the Council's Homelessness Prevention Team has conducted on-site drop-in surgeries to offer advice and support to residents at risk of homelessness.
- Historically, the annual closure of caravan parks across the Isle of Sheppey has led to a notable increase in demand for Housing Options services. In the previous year, 55 households approached the Housing Options team due to caravan park closures. Of these, 12 households were specifically from Kent Parks sites. So far this year, 23 households have approached the service. Of these, 11 households were specifically from Kent Parks sites. It is important to note that this year's figures are likely to rise as we approach the winter period, when park closures typically peak.
- Should this level of presentation continue or increase, it would place significant pressure on the Housing Options service to deliver statutory duties, including the provision of advice, assessments, and sourcing suitable accommodation. This would also result in substantial financial implications for the Council, particularly in relation to the cost of temporary accommodation.
- 5.7. **Mid-Kent Environmental Protection** -- No comments.
- 5.8. **Environment Agency (EA)** -- No Comments.
- 5.9. **Natural England (NE)** -- Providing that the appropriate assessment concludes that the measures can be secured [with sufficient certainty] as planning conditions or obligations by your authority, and providing that there are no other likely significant effects identified (on this or other protected sites) which require consideration by way of appropriate assessment, Natural England is likely to be satisfied that your appropriate assessments will be able to ascertain with sufficient certainty that there will be no adverse effect on the integrity of the European Site from recreational pressure in view of the site's conservation objectives. In this scenario, Natural England is unlikely to have further comment regarding the Appropriate Assessment, in relation to recreational disturbance.
- 5.10. **Lower Medway Internal Drainage Board (LMIDB)** -- No Comments.

- 5.11. **Southern Water** -- No objections.
- 5.12. **Kent Police** -- No Comments (Outside of Scope)
- 5.13. **SBC Economy and Regeneration Team** -- The Economy and Regeneration team are ordinarily supportive of all tourism related developments in the borough. However, the application to extended the occupation months at the holiday parks in question, would lead to a loss of income generated by visitors to the island in both high and low seasons. It will also reduce the variety of accommodation available for visitors to choose from as many of the caravans will default to being full time residential properties. There is limited accommodation of the same type, on offer elsewhere in the borough and it would therefore be beneficial to maintain the holiday stock available on the Isle of Sheppey.

6. DEVELOPMENT PLAN POLICIES

Bearing Fruits 2031: The Swale Borough Council Local Plan 2017 (the Local Plan)

- ST1 Delivering sustainable development in Swale
- ST2 Development targets for jobs and homes 2014-2031
- ST3 The Swale settlement strategy
- ST4 Meeting the Local Plan development targets
- ST6 The Isle of Sheppey area strategy
- CP1 Building a strong, competitive economy
- CP2 Promoting sustainable development
- CP3 Delivering a wide choice of high quality homes
- CP4 Requiring good design
- CP5 Health and wellbeing
- CP6 Community facilities and services to meet local needs
- CP8 Conserving and enhancing the historic environment
- DM3 The rural economy
- DM4 New holiday parks or extensions to existing parks
- DM5 The occupancy of holiday parks
- DM6 Managing transport demand and impact
- DM7 Vehicle parking
- DM14 General development criteria
- DM19 Sustainable design and construction
- DM21 Water, flooding and drainage
- DM26 Rural Lanes
- DM28 Biodiversity and geological conservation
- DM32 Development involving listed buildings

Supplementary Planning Guidance/Documents –

- Landscape Character Assessment and Biodiversity Appraisal (LCA&BA), 2011.
- Parking Standard Supplementary Planning Document, 2020.
- Air Quality and Planning Technical Guidance, 2024.
- Strategic Access Management and Monitoring Strategy (SAMMS), 2014

**National Planning Policy Framework (the NPPF)
National Planning Practice Guidance (NPPG)
Kent Mineral and Waste Local Plan 2024-39 (KM&WLP), 2025 & the Kent Mineral
Sites Plan (KMSP), 2020.**

7. **ASSESSMENT**

The main considerations involved in the assessment of the application are:

- Principle
- Heritage
- Ecology
- Transport and Highways
- Air Quality
- Impact of Additional Activity on Living Conditions and Countryside Tranquillity
- Other Matters

7.1. **Principle**

7.1.1. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.

7.1.2. The NPPF provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.

Terms of Application

7.1.3. The application has sought the variation of conditions 2, 3 and 4 to enable their relaxation for a 2 year period. Depending on the approach that is taken, conditions could be imposed to either make the effect of any permission temporary or the conditions could be varied to set out the limitations that exist for two years and the conditions that would then be applicable thereafter.

7.1.4. In the event that the complete relaxation of conditions 2, 3 and 4 for a two year period is not found to be acceptable, consideration should be had to whether alternative conditions could be imposed to make a development acceptable. In this regard, it is noted that paragraph 4.3 of the applicant's Planning Statement sets out that they would be happy to discuss limitations relating to the number of units that are able to be occupied, the new and varied occupancy periods and leasing/licensing arrangements. An assessment will be made in relation to the entire relaxation of the conditions for a two year period and the potential to impose alternative conditions.

Development Plan – Settlement Strategy

- 7.1.5. Policy ST1 states that development proposals will accord with the Local Plan Settlement Strategy. The site is located outside the built-up area boundaries that exist within the Swale Borough.
- 7.1.6. The Settlement Strategy is set out at Policy ST3 and, as far as it is relevant to this application, it states that “At locations in the open countryside, outside the built-up area boundaries shown on the Proposals Map, development will not be permitted, unless supported by national planning policy and able to demonstrate that it would contribute to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities.”
- 7.1.7. The part of the exception that relates to the NPPF can be considered further below but, regardless of any conclusion that is reached in that respect, for reasons that will be set out below, the proposal would not enhance “the intrinsic value, *landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities*”. Therefore, the proposal is contrary to the Settlement Strategy.
- 7.1.8. Policy CP2 states that “*new development will be located in accordance with Policy ST1 to Policy ST7....which minimise the need to travel for employment and services and facilitate sustainable transport.*” The site is located outside the settlement boundary and does not accord with Policy ST1 and ST3 as set out above. Whilst there is no new built development, the altered usage of the site would be new and, as such, the policy CP2 is considered to be applicable and conflicted with.
- 7.1.9. Policy CP4 states that development should “*make safe connections physically and visually both to and within developments, particularly through using landscape design and open space to retain and create green corridors for pedestrians, cyclists and biodiversity.*” Policy CP2 also states that development should “*achieve alternative access to all services through promoting access to sustainable forms of transport particularly bus, cycling and rail transport and improving interchange between them from the earliest stages of development.*”
- 7.1.10. Policy DM6 requires that “developments demonstrate that opportunities for sustainable transport modes have been taken up.” It also states that “*The location, design and layout of development proposals will demonstrate that priority is given to the needs of pedestrians and cyclists, including the disabled, through the provision of safe routes which minimise cyclist/pedestrian and traffic conflict within the site and which connect to local services and facilities [and that] access to public transport is integrated into site design and layout where appropriate.*”
- 7.1.11. Policy DM14 states that development will “*Achieve safe vehicular access, convenient routes and facilities for pedestrians and cyclists, enhanced public transport facilities and services.*”

- 7.1.12. The site is distant from the nearest bus stops and the site is remote from Eastchurch which is served by limited facilities for residents. From this basis, whilst there is a limited level of access to public transport, those connections are distant and provide a service of limited coverage. Whilst occupiers of the site might cycle, services would be limited and/or distant from the site and, therefore, are unlikely to be regularly cycled to. Therefore, it is considered inevitable that the majority of people at the site will be reliant on private modes of transport. This is true for lawful tourism users of the site and year-round occupiers of the site. However, it is considered that residents would have a different travel pattern and, as such, residential uses should be directed to sites better served by services and facilities capable of meeting their day-to-day needs. Whilst noting the difference between this temporary application and other applications being for the permanent relaxation of the conditions, this finding is consistent with other recent appeal decisions within the vicinity and it is considered that the conflict with the abovementioned policies would arise whether the use is permanent or temporary.

Development Plan – Holiday Parks

- 7.1.13. The site is allocated in the Local Plan Proposals Map as a Holiday Park. Policy DM4 addresses the provision of new holiday parks, the extension of holiday parks and the provision of new or improved facilities within holiday parks. The content of that policy is not considered to be instructive for the assessment of this application. However, the pre-ambles to that policy provides some context for the consideration of applications related to holiday parks, stressing that a core principle of the NPPF is to proactively drive and support sustainable economic development. It goes on to state that *“Holiday parks provide direct employment and their users support shops, pubs, restaurants and visitor attractions. There can also be other social benefits in that they give work in areas where little alternative employment exists. The changing nature and flexibility of the leisure market and the higher aspirations of customers today are leading to leisure providers continually developing new concepts to respond to consumer needs and aspirations.”*
- 7.1.14. Local Plan Policy DM5 addresses the occupancy of holiday parks and reads as follows:

In order to ensure a sustainable pattern of development and to protect the character of the countryside, planning permission will not be granted for the permanent occupancy of caravans and chalets. Where it can be demonstrated that higher quality standards of holiday accommodation can be secured, planning permission will be granted for proposals to extend the occupancy of holiday parks between 1 March and 2 January the following year (a 10 month occupancy), provided that:

- 1. The site is not at risk of flooding, unless, exceptionally, applications accompanied by a Flood Risk Assessment (FRA) satisfactorily demonstrating that the proposal would result in no greater risk to life or property and where an appropriate flood evacuation plan would be put in place;*
- 2. The amenity and tranquillity of the countryside and residential areas are safeguarded;*

3. *The proposals are in accordance with Policies DM 22 and DM 23 relating to the coast and the coastal change management area; and*
4. *Where located adjacent or in close proximity to the Special Protection Areas (SPA), an assessment has been undertaken to determine the level of disturbance to over-wintering birds and identified mitigation measures, where appropriate.*
5. *The extension of occupancy is subject to planning conditions safeguarding the holiday accommodation from being used as sole or main residences, as set out in Appendix 2.*

- 7.1.15. The pre-amble to the policy highlights the history of most of the holiday parks, noting that 8 month (and eleven days at Christmas and New Year) occupancy restrictions existed in most cases. The supporting text indicates that *“the limited occupancy period was imposed to ensure that these holiday parks were not used as permanent (and sometimes sub-standard) housing (many of which would be in poorly accessible parts of the Borough) and to protect the character of the rural area. Limited occupation also afforded the opportunity to retain a period of tranquillity in rural and other areas. In areas at risk of flooding, permanent occupation over the winter period could also result in risk to life.”*
- 7.1.16. The supporting text highlighted that *“to give more scope and incentive to enable modernisation and upgrading to take place, the Council considers that there will be occasions when a 10 month occupancy period will be acceptable, which will, in turn, deliver tourism benefits and support for the local economy.”* It goes on to state that Policy DM5 sets out the parameters within which applications to extend occupancy of holiday parks to a 10 month period will be permitted before stating that *“Permanent occupation will continue to be resisted.”*

Condition 2 – Occupancy Period.

- 7.1.17. This application does not seek the permanent occupancy of the accommodation at the site as the year round occupancy is proposed for a temporary period of 2 years. From this basis, the effect of the application would not be directly contrary to the first sentence of Policy DM5 as it has been written.
- 7.1.18. However, the application would enable the extension of the occupancy period that is defined in the remainder of the first part of Policy DM5. The policy should be read in the context of the history of the holiday park sites and the earlier iterations of the development plan which imposed an 8 month (plus 11 days at Christmas and New Year in some cases) occupancy limitation. Paragraph 7.1.27 of the Local Plan states that *“to give more scope and incentive to enable modernisation and upgrading to take place, the Council considers that there will be occasions when a 10 month occupancy period will be acceptable.”* Whilst the Policy allowed for an increased occupancy period up to 10 months, subject to conditions, there is no indication that this would be able to be extended to 12 months in any circumstances, on a temporary or permanent basis.

- 7.1.19. From this basis, the proposed relaxation of the condition to enable year round occupation, albeit only for two years, would be contrary to the objectives of Policy DM5. Having regard to the potential to impose alternative conditions, any occupancy exceeding 10 months would be contrary to the aim of the policy. It is clear from the application submissions that the intention is to enable occupiers to be resident at the site on a year round basis and, therefore, any mid-ground occupancy period would be contrary to the intentions of the applicant.

Conditions 2, 3 and 4 – Main Residence Restriction and Record Keeping.

- 7.1.20. Turning to the criteria that are set out within Policy DM5, it is considered relevant that the assessment of these matters is only applicable in the context of the abovementioned occupancy limitation being complied with. Notwithstanding this, the criteria give a direction as to the key material considerations for this application. The matters addressed by criteria 1 to 4 of Policy DM5 are addressed in the relevant sections below.
- 7.1.21. For reasons that will be set out below, the variation of conditions in effect at the site would cause the use of the site to conflict with Criteria 2. There would be no conflict with Criteria 1. In relation to Criteria 4, there is grounds to object where no mitigation provisions are secured but it is expected that this would be able to be resolved. Again, this will be considered further below.
- 7.1.22. With respect to Criteria 3, the site is outside the coastal erosion zone and the Coastal Change Management area. Therefore, no objection is raised on those grounds.
- 7.1.23. In respect of Criteria 5, the planning conditions set out at Appendix 2 of the Local Plan are fundamentally the same as appear within existing conditions 2, 3 and 4 that currently apply to the permitted use at the site, as detailed above. The application seeks to vary these conditions. By varying these conditions, the development would no longer accord with Policy DM5 and the limitations that are fundamental to holiday parks to benefit from 10 month occupancy periods. Consequently, an application to use the site without complying with those conditions is in conflict with Policy DM5.
- 7.1.24. Amongst other relaxations, the primary effect of this would be to enable the accommodation at the site to be used as a persons primary residence. This is corroborated by the Applicant's Planning Statement which states that many of the existing occupants do not have an alternative permanent address and would be made homeless if the application site was made uninhabitable during the two-month closed season. This means that these units are the sole residence for these occupants and the relaxation of the subject conditions and year-round occupation of these sole residences would constitute their operation, for a two-year period, as dwellings rather than as tourist accommodation. This is entirely contrary to the designation of the site within a holiday park and the associated policies that are discussed above.

Temporary Effect of Variation

- 7.1.25. The application seeks the relaxation of conditions for a temporary period and, as such, the application is considered to be seeking what is tantamount to a temporary planning permission, which is enabled by Section 72 of the Act. Planning Practice Guidance states that *“Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period.”*
- 7.1.26. The application is not being advanced as a ‘trial run.’ The case of the applicant is that planning circumstances might change at the end of the proposed two year period as they are seeking to advance proposals to develop the site. This is evidenced by virtue of a Screening Opinion (25/504264/ENVSCR) which has been sought for the development of this site, along with other land that is within the applicant’s control and is referenced in the planning history section above. This has been referred to as a “meanwhile use” by the applicant which is described in the Planning Practice Guidance as a temporary use of vacant land or buildings prior to any longer term proposals coming forward. The site is not vacant and so this is not directly relevant. However, whichever element of the PPG is drawn from, it is the case of the applicant that the proposal should be considered as a temporary situation until a permanent re-development of the site is brought forward.
- 7.1.27. At this stage, there can be no guarantee that the re-development of the site in the manner described would be granted planning permission. Whereas a ‘meanwhile use’ might be beneficial by bringing activity to a site that is vacant, that benefit would not arise here as, if not approved, the site would retain its lawful use and the chalets would continue exist at the site. Conversely, putting the site to use outside the period that is defined by conditions would actively derive harm as a result of the impact on tranquillity that will be considered further below. From this basis, it is considered that negligible or very limited weight should be given to the suggestion that an alternative development might replace the existing or amended situation in the future and that no benefit would arise from the ‘meanwhile use’ of the site that is suggested by the applicant.

Number of Chalets Affected

- 7.1.28. The applicant’s submissions have addressed this application along with the other adjacent sites that are within their control. As such, site specific details are difficult to ascertain. However, it is indicated at paragraph 3.5 of the applicant’s submissions that there is a capacity of approximately 1197 units at the overall land holding and at least 200 of them have been occupied in breach of the abovementioned conditions. It is understood that the sites within the applicant’s control are not the only holiday parks where a breach of condition has taken place.
- 7.1.29. Should this and the other concurrent applications be allowed in the broadest of terms, all of the units would be able to be occupied throughout the prescribed period. This would far exceed any need to accommodate a number of the occupiers of the 200 or

so units that have been indicated to have been occupied in breach of the restrictions previously. To allow the relaxation of the conditions for all of the accommodation would not only address the existing breach that has occurred but potentially give rise to a far increased level of occupancy that would present greater issues at the end of the temporary period than would otherwise be the case. Unless precision was included in relation to the number of units occupied, the site could attract occupiers from other sites. That might be of benefit to enabling other sites to comply with their conditions, but it could increase the number of residents at the applicant's holding who, in 2 years time, might have an even greater expectation of being allowed to stay at the site year-round.

- 7.1.30. It is noted within the applicant's submissions that they would be willing to discuss conditions, including a condition that could restrict the number of units that can be occupied. Such a discussion has not occurred. However, if minded to approve, it would be necessary to discuss the number of chalets that can be occupied on this site and attempt to imbed that into a condition that meets the applicable tests. Such a condition could also attempt to secure a lower number in the second year to give the Council comfort that the applicant is working towards reducing the number of persons that occupy the site in breach of the planning conditions.
- 7.1.31. However, enforcing such a condition would be riddled with difficulties, particularly on a holiday park. Whereas a blanket restriction on occupation is enforceable, identifying which chalets are occupied and which are not, would be inherently difficult if not virtually impossible. For example, if a limit was reached, how would a person attempting to enforce that limit know which unit should be enforced against. A plan would be required to specifically identify which units would be occupied but no such plan has been submitted and there is no current way available to be able to identify specific chalets.

Housing Supply

- 7.1.32. Swale Borough Council cannot demonstrate a five year housing land supply. Therefore, where a proposal relates to the provision of housing, the approach set out at paragraph 11d) of the NPPF is applicable.
- 7.1.33. Setting aside the conflict with the development plan, accommodation in C3 use are able to count towards Housing Supply and the use of the site as housing could count towards the supply of housing within the Borough. Depending on the approach taken to the number of caravans that the relaxation would apply to, this could be any number up to 1,197 units across the overall holding, of which 40 units are at this site. However, this 'supply' would only exist for 2 years and, as it would have to be discounted within the same assessment period, such temporary accommodation is not counted in the Council's 5 year housing land supply.
- 7.1.34. It is considered that a temporary housing supply boost can only be given limited weight as a planning benefit. It is not effectively addressing any housing shortfall as that shortfall would return in 2 years and it is not considered that chalet accommodation,

which the applicant recognises is in poor condition, is a sustainable solution to addressing housing needs. It is recognised that a need is derived from the historic breaches of the conditions at the site and that the NPPF indicates that a sufficient amount and variety of land should come forward for housing, where it is needed and that the needs of groups with specific housing requirements are addressed.

- 7.1.35. The applicant identifies that the site and the wider land holding has been used to accommodate people on a year-round basis. This has been in breach of the abovementioned conditions and could be liable to enforcement action. This has created a situation where year-round occupiers are present and reliant on the accommodation. To refuse this application would result in it continuing to be the case that year round occupation would be in conflict with the abovementioned conditions and a breach of planning control, with harms that are identified elsewhere in this report. It is therefore considered that the future 'need' for housing that has been generated by the past breaching of planning conditions at the site needs to be weighed against the harms and conflict with national and local planning policies.
- 7.1.36. The applicant has indicated that occupiers would be made to leave the site from January 2026. Some of those occupiers might have no alternative accommodation available and, as such, could present themselves to the Council as homeless. The needs of the local population should be a material consideration and will be considered. The duty on the Council to accommodate any persons that are caused to be homeless could create considerable difficulties for the Council and it is a key component of the applicant's case that allowing the application would avoid implications for other services of the Council, primarily the Council's Housing Team who would potentially see a sharp increase in demand, with the cost and labour implications.
- 7.1.37. In this regard, it is considered relevant that the Council is not hereby deciding whether or not to serve a Planning Enforcement Notice or a Breach of Condition Notice at the site. The decision of the applicant to comply with planning conditions if this application is refused, which should be a fundamental requirement, would be a decision for the applicant. The problem that may or is likely to exist around persons being homeless is a consequence of the unlawful occupation of the site that is understood to have been enabled by the applicant's predecessors. Accommodating people that might not have alternative accommodation can be viewed as a benefit of granting planning permission. However, this could also be achieved by not enforcing the conditions or by the chosen form of enforcement.
- 7.1.38. A factor that is considered to be important to this assessment is the quality of the accommodation at the site. The pre-amble to Policies DM4 and DM5 identify that some of the Borough's accommodation of this type is of poor quality and in need of improvement. Consistent with this, the applicant's own Planning Statement sets out that some of the accommodation at the site is of poor quality. In the absence of any form of detailed assessment of the quality of the accommodation, it is considered appropriate to give weight to a visual inspection of the site which suggests that much of the accommodation is not likely to accord to modern standards. Whilst it is expected

that occupiers will value this accommodation and it is noted that reference has been made to the existence of a community spirit at the site and the holding in general, it is considered that the reliance on living accommodation that might not accord with modern standards should not be considered to be sustainable. In this regard and giving consideration to the potential to use a condition that limits the number of chalets, there is no evidence available to suggest whether those residents in the greatest need would have access to the best-kept chalets or those at the other end of the quality and maintenance range.

- 7.1.39. The proposal being a 'meanwhile use' is considered to weigh against the suggestion that the proposal would address a homelessness situation from occurring. It is acknowledged that the temporary availability of accommodation could provide a short-term solution to the existing hidden homelessness. However, it is integral to this that the applicant intends to bring the current situation to an end and re-develop the site. This would not address the situation in the medium term and, whilst occupiers would have a 2 year opportunity to find alternative accommodation, they would equally have 2 years to become more imbedded at the site and, potentially, develop a hope or expectation that a further year round occupancy will be provided in the future. There can be no certainty that the future proposals at the site would or would not be available to the current occupiers at the site and therefore, even noting that the temporary permission would afford those residents additional time to find alternative accommodation, it is likely that they would have to leave the site in due course in any case. Whilst a relocation management plan to guide occupiers to suitable accommodation prior to the end of the temporary period might have been able to be explored and been the subject of a condition, it is considered that there could be little comfort or certainty that such a plan would be effective and, in the circumstances that have been detailed by the applicant, it is not clear how a phased reduction of occupiers at the site would be able to be achieved. The proposal would be as likely to postpone any problems rather than address them.

Tourism and Economic Development Considerations.

- 7.1.40. Policy CP1 of the Local Plan seeks to safeguard or enhance Swale's 'Principal Tourism Assets' and to consolidate or widen the tourism potential of the borough. Holiday parks are listed under the borough's 'Principal Tourism Assets' and the supporting text sets out that these should be protected from inappropriate development. Policy ST6 seeks to support the existing tourism offer on the Isle of Sheppey and the supporting text to this policy emphasises the importance of tourism to the economy of the Isle of Sheppey. Policy DM3 promotes rural tourism and makes clear that residential development should not be permitted at the expense of rural employment. The supporting text to policy DM4 states that holiday parks provide direct employment and support shops, pubs, restaurants and visitor attractions.
- 7.1.41. Whilst the comments of the applicant relating to the manner in which the site has not operated as a conventional holiday destination are noted, to formally change the use of the site (even for a temporary period) would compound the loss of holiday accommodation and reduce the tourism offer that exists and is of significance to the

local economy. This would be contrary to the above policies that seek to safeguard and enhance tourism and to prevent the use of holiday parks as a person's main residence.

- 7.1.42. No detailed information has been provided to demonstrate why the accommodation is not suitable for holiday use and there is no evidence that demonstrates insurmountable difficulties to use the units as holiday accommodation. The residential use of the site would undermine the clear strategies in the adopted local plan to promote and increase the tourism offer in the borough and on the Isle of Sheppey, where tourism plays a vital role in the local economy. In this regard the change of use is contrary to policies CP1, ST6, DM3, DM4 and DM5 of the Local Plan.
- 7.1.43. It is considered that these policies are consistent with the NPPF as paragraph 88 of that document states that planning decisions should enable “...*the sustainable growth and expansion of all types of business in rural areas and sustainable rural tourism and leisure developments which respect the character of the countryside*”.

Other Conditions

- 7.1.44. As set out above, regard has to be had to the use of other conditions. In this case, it is considered that any period of occupancy beyond 10 months would conflict with policy DM5, albeit potentially to a lesser degree.
- 7.1.45. Similarly, whilst a limitation on the number of units able to be occupied would reduce the scale of conflict, any occupancy contrary to the current conditions would inherently be in conflict with the development plan.
- 7.1.46. There are other material considerations to consider in relation to this case, which will be addressed below. However, it must be a crucial consideration that the variation of condition, as sought or any comparable version of that amendment, would cause the development at the site to be contrary to the development plan and, at least in part, the NPPF.

Other Matters Related to Principle

- 7.1.47. As set out above, it is noted that the occupancy restriction conditions are likely to have been breached at the site. However, no case has been made by the applicant that these breaches have occurred for a sufficient time for any breaches to have become lawful and no Certificate of Lawfulness has been applied for to this effect. Consequently, it is not known that there is a fallback position to afford any weight in the assessment of this application.
- 7.1.48. Summary in Relation to the Principle of the Variation of Conditions

For the reasons set out above, the relaxation of the conditions that currently exist would be contrary to the development plan. The harms arising from this will be considered below and weighed against the benefits of supporting the applications within a planning balance assessment.

7.2. Heritage

- 7.2.1. Any planning application for development which will affect a listed building or its setting must be assessed in accordance with the requirements of section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires a local planning authority to have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest which it possesses.
- 7.2.2. The NPPF states that local planning authorities should identify and assess the particular significance of any heritage asset and consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits that may arise and this is endorsed by the Local Plan.
- 7.2.3. There are heritage assets within the general locality near to the site but these would not be directly impacted upon by the proposal, this includes the Grade II listed buildings at Connetts Farm, Trouts Farm and Palm Trees Holiday Park. Any impacts on the setting would be limited to that caused by additional activity in the area arising from the additional usage of the site. In this instance, and having had regard to the Council's obligations pursuant to the Planning (Listed Building and Conservation Areas Act) 1990, it is considered that the additional activity would not be harmful to the aural setting of those heritage assets and, therefore, there would be no conflict with Policy DM32 of the Local Plan or the heritage section of the NPPF. Due to the distance between the site and the Grade II* listed Shurland Hall and the arrangement of that site relative to the highways that would be affected by the additional use, the proposed increased activity is not considered to impact on the setting of that listed building.

7.3. Ecology

- 7.3.1. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') affords protection to certain species or species groups, commonly known as European Protected Species (EPS), which are also protected by the Wildlife and Countryside Act 1981. This is endorsed by Policies CP7 and DM28 of the Local Plan, which relates to the protection of sites of international conservation importance including Special Areas of Conservation (SAC), Special Protection Areas (SPA) or Ramsar Sites.

Protected habitats

- 7.3.2. Section 40 of the Natural Environment and Rural Communities Act (2006) states "*For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England*" and "*A public authority which has any functions exercisable in relation to*

England must from time to time consider what action the authority can properly take, consistently with the proper exercise of its functions, to further the general biodiversity objective.” Furthermore, the NPPF states that ‘the planning system should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity.’ The NPPF states that ‘if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.’

- 7.3.3. In terms of the Local Plan, Policy DM28 sets out that development proposals will conserve, enhance, and extend biodiversity, provide for net gains where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.
- 7.3.4. The site is in proximity to the Swale Special Protection Area (SPA) and Ramsar site and the Medway Estuary and Marshes SPA and Ramsar site and Outer Thames Estuary SPA. The sites are designated because they provide important habitats for wintering, migratory and breeding waders, seabirds, waterfowl and other birds (the qualifying features). Their conservation objectives are to maintain or restore their integrity by maintaining or restoring the extent, distribution, structure, function and supporting processes of the habitats of the qualifying features, the population of each of the qualifying features, and the distribution of the qualifying features within the site.
- 7.3.5. Increased visits and recreational use by occupiers within proximity to the habitats sites are likely to disturb the qualifying features. This can affect their ability to feed, rest, and nesting, constituting Likely Significant Effects upon them. Though the magnitude of Likely Significant Effects would be dependent upon occupancy rates, this proposal would result in greater occupation of the site for a temporary period, within a distance of habitats sites where it is identified there would likely be increased visits from occupiers, with Likely Significant Effects, upon the qualifying features. A strategic package of measures to mitigate the effects of recreational pressure and disturbance are set out in the Thames, Medway and Swale Strategic Access Management and Monitoring Strategy. This is based upon a costed tariff, to fund mitigation measures for each unit or scheme. To effectively mitigate the Likely Significant Effects, the contributions must be secured, and mitigation undertaken prior to occupation.
- 7.3.6. In response to this application Natural England have confirmed that the proposal would impact upon the integrity of the habitats sites and qualifying features, if un-mitigated. This is also supported by the KCC Ecologist. Any increase in the occupation period, even on a temporary basis would mean there would be some effects and, as such, proportionate mitigation needs to be secured.
- 7.3.7. As with any planning application, the request for financial contributions needs to be scrutinised in accordance with Regulation 122 of the Community Infrastructure Regulations 2010 (which were amended in 2014). These stipulate that an obligation can only be a reason for granting planning permission if it is necessary, related to the development and reasonably related in scale and kind. Whilst it is unusual to seek planning obligations from a temporary planning permission, for the reasons given

above it is considered that it would meet all of the applicable tests to do so in this case. To make this proportionate, the amount of contribution would need to be reflective of the period of increased occupation and the two year duration of the temporarily increased population. Moreover, the conventional contribution needs to be reduced as it relates to two months of the relevant 'wintering' period. Based on the current SAMMs rate, this would amount to £2.73 per unit. For the reasons set out above, the overall sum could fluctuate if any permission granted relates to all of the chalets at the application site or a reduced number.

- 7.3.8. At the time of preparing this report, the necessary mitigation has not been secured and, as such, there is a conflict arising with the abovementioned legislation and policies. It is, however, expected that this would be resolvable and it is clear from communications received that the applicant would be willing to address this matter. The absence or securing of mitigation has a material effect on planning balance considerations and, as such, both scenarios will be considered fully below.

On-Site Protected Species

- 7.3.9. No physical works are required and there is no basis to assume that the proposed variation of the occupancy period and other applicable restrictions would have any impact on protected species at the site.

Biodiversity Net Gain (BNG)

- 7.3.10. This application was submitted after the commencement of Mandatory Biodiversity Net Gain. However, the applicable guidance is clear that this does not apply to section 73 permissions where the original permission which the section 73 relates to was either granted before 12 February 2024 or the application for the original permission was made before 12 February 2024. That is the case here and, as such, there is no BNG requirement arising from this application.

7.4. Transport and Highways

- 7.4.1. Local Plan Policies CP2 and DM6 promote sustainable transport through utilising good design principles. They set out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm. Policy DM7 of the Local Plan requires parking provision to be in accordance with the Council's Parking SPD. The site is also reliant on the use of a designated rural lane and, as such, policy DM26 is applicable.
- 7.4.2. The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. A core principle of the NPPF is that:

"Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on

the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.”

- 7.4.3. The proposal would not increase the amount of accommodation at the site and there would be no alterations to the access to the site. Whilst the duration of the use would extend and the amount of annual vehicle movements can be expected to increase as a result, there is no reason to conclude that the extended occupancy periods would be used at a greater intensity than the currently authorised periods. Noting that the traffic associated with the use can already occur for 10 months of the year and presumably be more intensive in the summer period, it is not considered that the additional traffic arising from the 2 month winter period would have a severe impact on traffic that would conflict with the above extract of the NPPF. Moreover, there would be no requirement to provide additional parking and the impact on the rural lane would not be unacceptable in terms of traffic generation. The variation of the condition would not, therefore, be in conflict with the abovementioned policies.
- 7.4.4. The effect of additional traffic on living conditions of nearby residents will be considered below.

7.5. **Air Quality**

- 7.5.1. The importance of improving air quality in areas of the borough has become increasingly apparent over recent years. Legislation has been introduced at a European level and a national level in the past decade with the aim of protecting human health and the environment by avoiding, reducing or preventing harmful concentrations of air pollution.
- 7.5.2. Policy DM6 of the Local Plan sets out that development proposals will integrate air quality management and environmental quality into the location and design of, and access to development and in so doing, demonstrate that proposals do not worsen air quality to an unacceptable degree.
- 7.5.3. The NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing new/existing development from contributing to or being put at unacceptable risk from, or being adversely affected by, inter alia, unacceptable levels of air pollution. It also requires the effects of air pollution and the potential sensitivity of the area to its effects to be taken into account in planning decisions.
- 7.5.4. The Planning Practice Guidance on Air Quality (Paragraph: 005 Reference ID: 32-005-20191101) states that:
“whether air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to have an adverse effect on air quality in areas where it is already known to be poor, particularly if it could affect the implementation of air quality strategies and action plans and/or breach legal obligations (including those relating to the conservation of habitats

and species). Air quality may also be a material consideration if the proposed development would be particularly sensitive to poor air quality in its vicinity.

- 7.5.5. Given that the application is a minor application (being on land that is less than a hectare), an Emissions Mitigation Assessment is not required. In this instance, noting that the application relates to the variation of a condition to enable what is effectively 4 months of additional occupation (two months during each of two years), with no additional built development occurring, it is considered that any air quality impact would be limited. The site is not within or near an Air Quality Management Area and there is no reason to conclude that the proposal would have any more than a negligible impact on such an area through increased traffic occurring within those 4 months. From this basis, no conflict is identified in relation to the abovementioned guidance and policies. In this respect it is noteworthy that the Council's Environmental Health Officer has not raised any objection on this ground to any of the group of similar applications that are currently pending determination.

7.6. Flood Risk, Drainage and Surface Water

- 7.6.1. Policy DM21 of the Local Plan and the NPPF requires that Local Planning Authorities should ensure that flood risk is not increased elsewhere and that any residual risk can be safely managed. Moreover, Policy DM5 indicates that flood risk can be a material consideration in assessing proposals to extend the occupancy period of holiday parks.
- 7.6.2. The site is located within Flood Zone 1 in terms of fluvial and tidal flooding and is not subject to any areas of surface water flooding. Therefore, no objection is raised on the grounds of flood risk.

7.7. Impact of Additional Activity on Living Conditions and Countryside Tranquillity

Existing residents

- 7.7.1. Policy DM14 of the Local Plan and the NPPF requires that new development has sufficient regard for the living conditions of neighbouring occupiers. Of specific relevance to holiday parks and their occupancy period, Policy DM5 indicates that the amenity and tranquillity of residential areas is to be safeguarded. Tranquillity, to local residents and the countryside locality in general will be considered further below. However, in relation to other matters such as light, privacy, outlook and other such direct impact impacts, no additional impacts would be caused and so no objection is raised.

Site Occupiers

- 7.7.2. The accommodation at the site would not be altered by the proposed variation of condition. Regard is had to the current users of the site elsewhere in this report but, in terms of light, privacy, outlook, and other such direct impacts, it is not considered

that there would be a worsening of conditions that would represent a ground to object to the application.

Countryside Tranquillity

- 7.7.3. In addition to the extract of Policy DM5 that is referenced above, the pre-amble to the policy advises that one of the purposes of the limitation on the occupancy period is to retain a period of tranquillity in rural and other areas. In the recent appeal with respect to a similar proposal at Vanity Farm Camp (APP/V2255/W/24/3356382), the Inspector found that the policy is consistent with National Planning Policy Framework objectives in respect of protecting local character, seeking to strike a balance with other competing policy objectives such as in respect of economic development and tourism. This approach is also consistent with Policy ST3 which identifies that within the open countryside, development will not be permitted unless it contributes to protecting and, where appropriate, enhancing the intrinsic value, landscape setting, tranquillity and beauty of the countryside, its buildings and the vitality of rural communities. The current restriction, in part, creates a period of tranquillity that accords with this policy aim.
- 7.7.4. Whether the extended occupancy period is afforded to all of the units at the site or a smaller number to reflect the number of residents that have previously occupied the site in breach of conditions, the extended occupancy period would undermine the period of tranquillity through additional activity. Traffic, congestion, noise and tranquillity all vary according to the season and the restriction on occupancy is intended to provide local residents with a quiet period to appreciate the rural surroundings. The occupation of the application site throughout the year would bring about activity, noise and traffic in winter months that would be harmful to rural character and would clearly conflict with Policy DM5 of the Local Plan.
- 7.7.5. It is considered relevant to note that this matter has previously been tested at one of the site's within the applicant's control, Brookside Park. At appeal APP/V2255/W/21/327474, the Inspector found that *"The conditions securing the closure of the appeal site during the winter months ensure that permanent residents locally are able to experience the tranquillity of the area when it is free from visitors. Their proposed removal would mean that the site would remain open during the currently closed winter months, harming this existing character by removing the respite and tranquillity during this period. In addition, if permanent residential use were allowed of the caravans, then this would make it likely that the character of the site would change when in occupation during the summer months."* That Inspector went on to identify longer term impacts which are not relevant to this application. The Council has also previously reached a similar view with respect to an application at the nearby Beverley Camp and an Inspector reached a similar view in relation to the appeal at Vanity Farm Camp, which is within the applicant's wider holding. It is noted that the impact would be temporary and, therefore, different to that which was

experienced in those cases. However, there would still be an impact for that period that is contrary to the aims of the development plan.

- 7.7.6. For this reason, the impact on the character of the area arising from the disturbance and the associated effect on tranquillity, would be contrary to policies ST1, ST3 and DM5 of the Local Plan and the NPPF.

7.8. Other matters

- 7.8.1. No additional built form or caravans are proposed as part of the proposed variation of condition and, as such, there would be no additional structures or items at the site. From this basis, there would not be any additional visual impact or any additional effects on open space demand or provision, trees, archaeology, erosion or contamination.
- 7.8.2. Given that the effect of the variation of the condition would be temporary, for a two year period, and only effectively have an effect for a total of 4 months across that time, it is not considered that it would be reasonable to secure any other planning obligations or community infrastructure provisions, other than that which is addressed elsewhere in this report which is required to directly mitigate an effect arising from the proposed variation of condition. For similar reasons, it is not considered that it would be reasonable to require the site to achieve renewable energy generation or energy/water efficiency improvements and, therefore, no objection is raised by Officers on the grounds that the proposed variation would not address the requirements of Policy DM19.
- 7.8.3. The applicant acknowledges and it is known that there have been periods where the conditions referred to above, potentially at this site as well as other holiday parks with comparable conditions, have been breached. This has continued to a point where it is known that some users of the holiday parks in this area have used them as the main residence. Within their Planning Statement, the applicant indicates that this could amount to 400 or more people occupying 200 or more units at the sites that are in their control. This application site is likely to account for a portion of that unauthorised occupation. Any under-enforcement that has occurred is not considered to be reason, in itself, to conclude that the conditions no longer serve a purpose or should be set aside for a temporary period. Enforcement is discretionary and, if any breaches are brought to the Council's attention, in accordance with the Planning Enforcement Strategy, the Council would have choices to make around whether to enforce and, if applicable, how to enforce. The conditions that exist are considered to meet the relevant tests of enforceability and reasonableness and, as such, these are not grounds to vary the conditions.
- 7.8.4. The applicant has indicated that options have been explored relating to limiting the breach by moving all year-round users of the wider holding into a single part of the site. However, this has been deemed to be impractical for several reasons.

Interim Policy Statement

- 7.8.5. The Full Council adopted an interim planning policy on park homes on 17 June 2020 as ‘a material consideration that will hold some weight in the consideration of applications for park home proposals’. However, the interim policy is considered to hold limited weight given that it was not progressed via the development plan process, and has not been subject to scrutiny through consultation and examination. This approach has been supported at subsequent appeals including those at Plough Leisure Caravan Park, Brookfield Park, Golden Leas Holiday Park and Estuary View Caravan Park
- 7.8.6. The interim policy sets out a list of criteria for compliance. This includes the requirement that the site is in a sustainable location with access to services and facilities, and other criteria which, in some cases the proposals would comply with but in others, it has not been demonstrated that the proposal would comply, the accommodation meeting identified standards for example. It is set out elsewhere why these specific matters are a concern in relation to this application. Therefore, given the limited weight that should be attached to this interim policy, together with the conflict in any case with its criteria, it is still considered that the application is unacceptable.

Human Rights Act and Public Sector Equality Duty (Equality Act 2010)

- 7.8.7. The applicant states at several locations within their Planning Statement that some of the users of the site have health conditions and it is noted that some will consider the chalets to be their homes. In terms of personal circumstances of the site users, the applicant has not provided any specific details. No representations have been received detailing any specific considerations that the Council is required to have regard to. The Council has a duty to have due regard to the Public Sector Equality Duty as detailed within the Equality Act 2010 and the Human Rights Act 1998.
- 7.8.8. In line with the Human Rights Act 1998, it is unlawful for a public authority to act in a way which is incompatible with a Convention right, as per the European Convention on Human Rights. The human rights impacts that are most relevant to planning are Article 1 of the First Protocol (Protection of property), Article 8 (Right to respect for private and family life) and Article 14 (Prohibition of discrimination) of the Convention.
- 7.8.9. Where the peaceful enjoyment of someone’s home and/or their private life is adversely affected, their Article 8 and/or Article 1 of the First Protocol rights may be engaged. The loss of other forms of property (e.g. business premises) may engage rights under Article 1 of the First Protocol. These rights are both what are known as ‘qualified rights’, that is, they are not absolute rights but involve some form of balancing exercise between the rights of the state to take various steps and the rights of the individual or other affected body/organisation.
- 7.8.10. In the case of Article 8 rights, the interference must be in accordance with law and be considered necessary in the interests of national security, public safety or the

economic well-being of the country, for the prevention of crime/disorder, for the protection of health/morals or for the protection of the rights and freedoms of others

- 7.8.11. In the case of *RLT Built Environment Ltd v Cornwall Council* (a judicial review from 2016), the Court drew out a number of points concerning how to approach the loss of a home in the context of the planning process. The points set out by the Court were as follows:

I. Article 8 does not give a right to a home, or to a home in any particular place.

II. However, where someone has a home in a particular dwelling, it may interfere with the article 8 rights of him and/or his family to require him/them to move.

III. Whilst those rights demand “respect”, they are of course not guaranteed. In this context, as much as any other, the public interest and/or the rights and interests of others may justify interference with an individual's article 8 rights.

IV. Where article 8 rights are in play in a planning control context, they are a material consideration.

- 7.8.12. Any interference in such rights caused by the planning decision has to be balanced with and against all other material considerations, the issue of justification for interference with Article 8 rights effectively being dealt with by way of such a fair balance analysis.

That balancing exercise is one of planning judgment.

Article 8 rights are, of course, important: but it is not to be assumed that, in an area of social policy such as planning, they will often outweigh the importance of having coherent control over town and country planning, important not only in the public interest but also to protect the rights and freedoms of other individuals”.

- 7.8.13. In terms of Article 1 of the First Part, this provides as follows:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No-one shall be deprived of his possessions except in the public interest and subject to conditions provided for by law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

- 7.8.14. There are three key rules. The first is the principle of peaceful enjoyment of property. The second covers the deprivation of possessions and subjects it to certain conditions. The third recognises that that property can be controlled in the general interest.

7.8.15. Claims under any of the three rules need to be examined under four headings:

- I. Whether there was an interference with the peaceful enjoyment of “possessions”;*
- II. Whether the interference was “in the general interest”;*
- III. Whether the interference was “provided for by law”;*
- IV. Proportionality of the interference.*

7.8.16. In terms of assessing the proportionality of the interference, domestic case-law (Thomas v Bridgend County Borough Council in the Court of Appeal [2011], applying the European case of Bugajny), has summarised the approach as follows:

“The cases show that the issue of proportionality can be expanded into the following question:

“whether the interference with the applicants' right to peaceful enjoyment of their possessions struck the requisite fair balance between the demands of the general interest of the public and the requirements of the protection of the individual's fundamental rights, or whether it imposed a disproportionate and excessive burden on them.” (Bugajny [...] para 67).”

7.8.17. Article 14 of the Convention deals with the requirement for Convention freedoms to be available to all on a non-discriminatory basis. Article 14 is not a free-standing right in the same way as the other Articles that are mentioned above.

7.8.18. In line with the Public Sector Equality Duty (‘PSED’) the Council must have due regard to the need to eliminate discrimination and other forms of less favourable treatment such as harassment and victimisation, and to advance equality of opportunity and foster good relations as between persons who share a protected characteristic and persons who do not share it. The PSED is set out in section 149 of the Equality Act 2010. A protected characteristic for these purposes is age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. Advancing equality will amongst other measures remove or minimise disadvantages suffered by people due to their protected characteristic and take steps to meet the needs of people from protected groups where these are different from the needs of other people.

7.8.19. In planning terms, the potential impacts of a proposal on an individual or on groups of individuals should be addressed by the decision-maker as a material consideration. In balancing this against other material considerations, the decision-maker should also ensure that they give due weight to what is required by their statutory duties, including the requirements of the PSED.

7.8.20. If planning permission were refused, then occupation of the units at the site would be restricted to the existing 10 month period that is defined by the permission and in alignment with development plan policy. The occupiers would be required to vacate their units for most of January and all of February each year and would only be permitted to use the units for holiday/recreational use.

- 7.8.21. In terms of Article 8 rights (that is, the right to respect for the home and private life), the right is engaged by virtue of the continued inability to use the homes on the park for most of January and February in each of the two years. If the conditions are correctly followed, the occupiers will be required to find alternative accommodation. The question is whether the interference with the rights of affected individuals can be considered proportionate and necessary and so able to be justified under the second limb of Article 8. This involves weighing the interference against other material considerations in order to arrive at a fair balance between the interests of the individual and the interests of the community as a whole.
- 7.8.22. Development plan policy does not support year-round occupation of the Borough's holiday parks. Condition 2 of the effective planning permission aligns with this and the conditions that are in effect also require the chalets to be used for holiday and recreational use only, preventing the chalets being occupied as a sole or main residence. The occupants of the site would be required to move out of their park homes for at least two months of each year and would not be able to use the homes as a sole or main residence. Officers acknowledge that this could be disruptive or highly disruptive for those affected.
- 7.8.23. Some groups are likely to be more sensitive than others to displacement. The proportion of the occupiers of the site that might consider themselves to fall within these groups has not been made clear but, based on the applicant's submissions, including but not limited to the incident record that has been provided at Appendix 5 of the Applicant's Statement, it is considered appropriate to proceed on the basis that this would affect some persons with protected characteristics.
- 7.8.24. Taking into account the nature of the impact on the existing occupiers, officers consider the benefits of resisting unplanned residential development in an unsustainable location and protecting the rural character of this part of Sheppey, which is in the public interest, would outweigh any interference with the rights of the individual under Article 8.
- 7.8.25. As regards Article 1 of the First Protocol rights in relation to residential occupiers, officers have proceeded for the purposes of assessing this application on the basis that this right is engaged by the temporary displacement from the chalets on the site each year and the restriction on occupation of the chalets as a sole or main residence. That interference can be regarded as being in the general interest, with the operation of the planning system being a legitimate interest of the state.
- 7.8.26. Refusing a planning application has different implications to taking enforcement action. Whilst a refused planning application does not resolve a situation or provide comfort, neither does it, in itself, cause or require the cessation of the unauthorised use. In this case the granting of planning permission would provide certainty for residents for a 2-year period, but it would not be until positive action to require the removal of residents takes place that the Council would be responsible for making persons homeless. There would be options open to the Council in relation to enforcement. It is considered that the proportionality of refusing a planning application as opposed to taking

enforcement action has to be a consideration in this case, particularly in light of the limited period of respite that would be afforded to occupiers. In this respect, the implication of the Human Rights Act is considered to be different to an application relating to the permanent use of a site or a decision whether to take enforcement action.

- 7.8.27. In officers' assessment, taking account of the nature of the impact on residential occupiers, the proposed mitigation measures and the public benefits of the scheme, a fair balance is arrived at between the protection of the rights of affected individuals and the interests of the wider community and a disproportionate or excessive burden would not be imposed.

7.9. **Planning Balance – Benefits and Harm**

- 7.9.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.

- 7.9.2. The amended restrictions would enable harm to tranquillity. The proposal would also be contrary to the authorised use and allocation of the site as a holiday park, thereby undermining its intended use as a driver of tourism and the associated economic activity that derives from tourism, which is important to the local economy. For these reasons and due to the site being located in the countryside, the proposal is contrary to the development plan Settlement Strategy. Therefore, the application conflicts with policies ST1, ST3, ST6, CP1, CP2, DM3, DM4 and DM5 of the Local Plan. Moreover, whilst it would be resolvable, the proposal fails to mitigate its impact on designated habitat sites, which conflicts with policy ST1, CP7, DM14 and DM28 of the Local Plan. Therefore, while no objection is raised on the basis of the application of other policies, the development plan as a whole indicates that planning permission should be refused.

- 7.9.3. The NPPF is a material consideration and as the Council are unable to demonstrate a 5-year supply of housing land, paragraph 11.d of the NPPF is engaged. This states the following:

“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing

development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.”

- 7.9.4. In this case, as per part (i) and as a result of the impact on designated habitats not being mitigated, the application of policies that protect areas or assets of particular importance do provide a strong reason for refusing the development. Paragraph 195 of the NPPF also clarifies that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site.
- 7.9.5. However, proceeding on the basis that this is resolvable if the proposal was acceptable in all other respects, it is considered that it is sensible to undertake an assessment on the basis of the habitats issue being addressed. In such circumstances, it would need to be considered whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This assessment is carried out below.

Benefits

- 7.9.6. The primary benefit is that the proposal would provide year-round accommodation for people that are understood to have become reliant on the accommodation at the site, many of whom it is indicated would not have alternative accommodation immediately available to them. Formally allowing the accommodation to be used on a year-round basis and not as holiday accommodation would avoid a potential situation where people could be made homeless if the site owners decide to comply with the conditions which should have been complied with previously.
- 7.9.7. The proposal would also provide a temporary boost to housing supply as, if the conditions are relaxed, the chalets could be considered temporary accommodation which can be counted towards a 5 year housing land supply. This would however represent a temporary boost which would be reversed in 2 years time and, as such, does not represent a substantive solution to the Council's inability to demonstrate a five year housing land supply.

Harm

- 7.9.8. In the same way that the abovementioned housing supply benefit would be temporary, the harms caused would be temporary.
- 7.9.9. For reasons set out above, the temporary proposal would conflict with the Settlement Strategy and represent an unsustainable form of development in a countryside location.
- 7.9.10. The relaxation of the conditions would effectively enable a temporary change of use that would be contrary to the development plan. The site is allocated as a holiday park

and it is expected that the site should be used in such a way that generates economic activity throughout the local area. Whilst it is noted that the applicant's case is that the site does not function as a holiday park, the potential to achieve tourism activity through the use of the site would be temporarily lost.

- 7.9.11. A reason for the occupancy period being 10 months is to create a period of tranquillity. Albeit it would only be for a temporary period and it is understood that activity has been occurring in breach of the conditions (at this site and others) which would have undermined this objective, it is considered that formally allowing this activity to occur would cause harm to tranquillity and materially and unacceptably change the character of the area, for that temporary period.

Planning Balance (excluding the impact on protected habitats for the reason set out at 7.9.5)

- 7.9.12. Excluding the impact on protected habitats for the reason set out at 7.9.5 and applying the 'tilted balance' on the basis that the protected habitats issue can be easily resolved, it is still considered that the harm arising from the impact of the development and the associated conflict with paragraphs 88 and 187 of the NPPF would significantly and demonstrably outweigh the benefits of the proposal. The proposal is, therefore, contrary to the NPPF when taken as a whole. The proposal is also contrary to the development plan when it is taken as a whole for the reasons that are set out above. Having regard to other material planning considerations, including the housing needs of people that have been using the site, and weighing those factors against the harms that have been identified and the conflict with national policy and the development plan, it is considered that planning permission should be refused.

Planning Balance (including the impact on protected habitats for the reason set out at 7.9.5)

- 7.9.13. Including the impact on protected habitats for the reason set out at 7.9.5 makes the balancing exercise far simpler. The unmitigated impact on protected habitats would provide a strong reason for the refusal of the application and, therefore, the NPPF would indicate, even more strongly, that planning permission should be refused.

7.10. Conclusion

- 7.10.1. For the reasons given above, the development plan indicates that planning permission should be refused and other material considerations, including the NPPF, do not indicate that a different decision should be reached. Consequently, it is recommended that the application is refused on the grounds of the impact on tranquillity, the impact on tourism and the rural economy, the conflict with the development plan settlement strategy and due to the lack of a SAMMS contribution.

- 7.10.2. In considering the application, account has been taken of the information included with the application submission, the National Planning Policy Framework and the Development Plan, and all other material considerations including representations made including the views of statutory and non-statutory consultees and members of the public.

7.11. Recommendation

- 7.11.1. Refuse the application for the following reasons:

7.12. Reasons for refusal

1. The effect of the application would be to, temporarily, formalise the removal of accommodation from being available for use for tourism purposes and enable the site to be put to residential use. This is contrary to the purposes of the allocated holiday park and would cause harm to the local economy to which tourism is an important contributor. Moreover, the proposal would cause harm to the tranquillity and character of the locality. Furthermore, the proposal would be contrary to the Settlement Strategy for the Borough of Swale and the Isle of Sheppey Area Strategy by enabling a residential use to occur in a countryside location that is remote from the nearest settlements where a good range of services are available, that lacks the prospect of residents being able to integrate with the existing communities and is served by limited access to public transport to services, thereby resulting in a car dependent population. Having had regard to all other material considerations and having given consideration to whether any alternative conditions would be able to make the development acceptable, the proposal is, considered, unacceptable and contrary to Policies ST1, ST3, ST6, CP1, CP2, DM3, DM4, DM5 and DM14 of Bearing Fruits 2031 - The Swale Borough Local Plan 2017; and the National Planning Policy Framework
2. The proposed development will create potential for recreational disturbance to the Swale Special Protection Area and fails to provide adequate mitigation against that potential harm. The development would therefore affect the integrity of this designated European site, and would be contrary to the aims of policies ST1, CP7, DM5 and DM28 of Bearing Fruits 2031 - The Swale Borough Local Plan 2017; and the National Planning Policy Framework

