
Leybourne
Birling Leybourne And
Ryarsh

03 DECEMBER 2025

TM/25/00944/PA

Location: Land Opposite The Paddocks, Birling Road, Leybourne.

Proposal: Permanent use of site for four Gypsy Traveller families, to include four static caravans, four touring caravans, four Utility blocks, parking for 8 cars, water treatment plant, and associated hardstanding

Go to: [Recommendation](#)

1. Description of Proposal:

- 1.1 Temporary planning permission was granted on appeal (APP/H2265/C/21/3280661) for the material change of use of the land to use for the stationing of caravans for residential purposes together with associated development including the stationing of mobile washroom and toilet facilities, construction of a septic tank, construction of hard surfaces, and the erection of fences and gates.
- 1.2 The five year temporary permission was granted on 7 December 2022 subject to conditions (expires 6 December 2027).
- 1.3 This application seeks permanent use of the site for four Gypsy Traveller families, (four pitches in total) to include four static caravans, four touring caravans, four utility blocks, together with the parking for 8 cars, a water treatment plant, all within the existing hardstanding compound.

2. Reason for reporting to Committee:

- 2.1 The application is presented to committee at the request of Councillor Banks on the grounds that calling the site 'Grey Belt' based on the previous temporary approval appears highly dubious. Prior to the temporary approval this site was a padlock within the Green Belt.
- 2.2 It is also believed that there is such wide public interest, particularly from neighbouring residents they should have the opportunity to express their views.

3. The Site:

- 3.1 The application sites comprise an L shaped plot of land, approximately 32 metres in width (at its longest width) and 21.5 metres in width (at its shortest width) x 75.5 metres in length. The site lies on the eastern side of the Birling Road and comprises a temporary gypsy/traveller site. The site is reasonably well screened and is not readily visible within the street scene.

- 3.2 Public Bridleway MR130A runs along, but not adjacent to, the north-eastern side of the site, with the A228 a short distance further to the east of the site. The site lies within the open countryside and is designated as Metropolitan Green Belt.

4. Planning History (relevant):

24/00366/PA - Application Withdrawn - 18 June 2025

S73 Application for variation of conditions 3 and 4 submitted pursuant to Appeal ref APP/H2265/C/21/3280661 to allow for the siting of an additional 2 static caravans and 2 utility rooms within existing pitches.

23/00423/RD - Approved - 07 June 2023

Details of condition 4 submitted pursuant to allowed appeal ref.

APP/H2265/C/21/3280661 (21/00034/ENFNOT) to enforcement notice Enforcement 21/00225/USEH

21/00225/USEH (EN) / APP/H2265/C/21/3280661 - Appeal Allowed December 2022

Material change of use of the Land to use for the stationing of caravans for residential purposes and associated development including the stationing of mobile washroom and toilet facilities, construction of a septic tank, construction of hard surfaces, and the erection of fences and gates - Granted on a temporary basis for 5 years.

22/00708/FL - Declines To Determine - 13 June 2022

Change of use of land to residential for members of the Gypsy Traveller community. The site to contain two static caravans, five touring caravans, parking, hardstanding, and associated infrastructure. This application is part retrospective.

5. Consultees:

- 5.1 Whilst some comments have been summarised for the purpose of this report, all statutory and third-party comments have been reviewed in full. Moreover, comments may not have been specifically referred to within the assessment, but all planning related/relevant comments have been taken into account prior to the preparation of the committee report.
- 5.2 **Leybourne Parish Council:** Leybourne Parish Council wishes to register its strong objection to planning application TM/25/00944 on the grounds that the recommendation to approve places a significant weighting on the flawed assumption that the land be designated as 'Grey Belt' under the new provisions of the National Planning Policy Framework (NPPF, December 2024). Despite the recent revisions, the site continues to meet key Green Belt purposes and should not be reclassified.

1. The Site Still Strongly Contributes to Green Belt Purposes. Paragraph 7.22 of the report suggests that the site does not 'strongly' contribute to three Green Belt

purposes: preventing urban sprawl, preventing town mergers, and preserving historic town settings (NPPF Paragraph 143). However, this analysis is flawed for the following reasons:

Prevention of Sprawl (Purpose a): The site's Green Belt designation exists to maintain the clear separation of urban and rural land. Allowing development, even under the label of 'grey belt', creates a precedent for incremental urbanisation, which could ultimately lead to sprawl over time.

Prevention of Town Mergers (Purpose b): While the site may not immediately lead to the merging of two large settlements, its erosion as Green Belt weakens the overall strategic protection of neighbouring areas, making future encroachments more likely.

Encroachment on the Countryside (Purpose c, omitted from grey belt analysis): Although the report argues that this purpose is not relevant to grey belt assessment, it remains a fundamental Green Belt purpose (Paragraph 143). The site currently serves as a natural buffer, maintaining the character of the surrounding landscape. Reclassifying it to grey belt undermines its function and creates an unnecessary loophole for further development.

The mere fact that the site does not meet all Green Belt purposes to an extreme degree does not justify its reclassification. If this reasoning were widely applied, much of the Green Belt could be gradually undermined by piecemeal development.

2. Grey Belt Should Not Apply to Land That Has Never Been Previously Developed
The definition of ****grey belt in Annex 2**** of the NPPF includes "previously developed land" or land that does not strongly serve Green Belt purposes. However: The site is not previously developed land (PDL). This alone should be a decisive factor in preventing its designation as grey belt.

The site has not been subject to long-term degradation or urban characterisation that might warrant an alternative classification. Unlike brownfield sites or degraded land that might naturally transition to grey belt, this land continues to function as open countryside.

3. Temporary Development Does Not Justify Reclassification. The argument that previous temporary use for a traveller site somehow alters the land's Green Belt status is misleading. Temporary permissions are explicitly designed to be reversible and should not be used as a basis for reclassification. If this were allowed, temporary approvals would become a mechanism to erode the Green Belt incrementally, ultimately creating an unofficial reclassification process outside of the formal Local Plan review.

4. Need for Traveller Sites Does Not Override Green Belt Protections. Paragraph 7.24 acknowledges that there is an unmet need for traveller sites, but need alone does not justify Green Belt development. The Planning Policy for Traveller Sites

(PPTS) states that Green Belt protection should only be overridden in truly exceptional circumstances, which have not been demonstrated in this case. Furthermore, Paragraph 157 of the NPPF states that grey belt designation should not fundamentally undermine the remaining Green Belt, yet this proposal weakens it by setting a precedent.

5. The Site's Classification Should Be Based on Planning Policy. Not Convenience

The report (Paragraph 7.28) argues that the December 2024 NPPF revision means the site is no longer inappropriate development because it qualifies as grey belt. However:

- The classification of land should be based on its inherent qualities and role in the Green Belt, not on whether the current policy environment makes it easier to develop.
- Accepting a grey belt designation in this case would set a precedent for councils to selectively reclassify Green Belt land when faced with short-term housing needs, weakening protections for the future.

6. Retrospective Nature of Development. Significant works had been undertaken on this site prior to the temporary approval, including installation of hardstanding, buildings, utilities, and site clearance. These actions contravene proper planning procedure and reflect an intentional disregard for compliance. The applicant has previously pleaded guilty to breaching a Temporary Stop Notice, undermining confidence in future site management and compliance.

7. Lack of Ecological Assessment. Despite repeated requests from the Parish Council, no Preliminary Ecological Appraisal (PEA) has been conducted. This omission is significant given:

- The site's proximity to Ancient Woodland and TPO-designated trees.
- The inspector previously noted this deficiency when refusing permanent use under Ground A of the appeal.

Without robust ecological evidence, the long-term impact of this proposal on biodiversity remains unknown and unaddressed.

8. Planning Inspectors Temporary Application Recognition. The Planning Inspectors decision to grant only temporary permission was based on several key concerns that weighed heavily against a permanent approval:

- The development caused harm to the Green Belt, reducing openness and resulting in countryside encroachment. This was given substantial weight.
- The site was established as an intentional unauthorised development, which undermined the planning process and prevented proper ecological assessment.

- No ecological survey was carried out prior to development, breaching biodiversity protections in local planning policy.
- Despite acknowledging unmet need for traveller sites and the personal circumstances of the occupants, the Inspector concluded these did not justify permanent harm.
- A five-year temporary permission was granted to enable continuity for the families while allowing time for the local plan process to identify suitable sites, thus avoiding irreversible loss of Green Belt character.

5.3 West Malling Parish Council: objects to the application for the following reasons:

The site is situated within designated Green Belt and serves the following purposes as per para 143 of the NPPF:

- (a) to check the unrestricted sprawl of large built-up areas;
- (b) to prevent neighbouring towns merging into one another;
- (c) to assist in safeguarding the countryside from encroachment;

The Council also notes the concerns of the Planning Inspector when granting only temporary permission, including the lack of an ecological survey; it is noted that a survey has still not been undertaken.

West Malling Parish Council support the comments of Leybourne Parish Council as set out in their letter dated 14th July.

5.4 Kings Hill Parish Council: have reviewed the application and the associated context, including the objection submitted by Leybourne Parish Council, and we share their concerns. As a neighbouring parish, we believe this development would have a direct and detrimental impact on the wider Malling area, including Kings Hill residents.

Our objection is based on the following grounds:

1. Planning Policy and Precedent Concerns. The application appears to rely on the recently introduced and still evolving "grey belt" designation to justify permanent development on land that has not previously been allocated for such use. Approving this application could set a concerning precedent, where temporary or unauthorised land use is later legitimised through reinterpretation of planning policy. This risks undermining the integrity of the planning system and could open the door to similar applications across Kent and beyond, particularly in areas where green or grey belt protections are intended to manage sustainable development.

2. Impact on Green Belt and Local Character. While the grey belt policy aims to identify land within the green belt that may be suitable for development, it still

requires that such development does not undermine the overall purposes of the green belt. In this case, the proposed site lies in a sensitive location between West Malling and Leybourne, and its development would contribute to urban sprawl, contrary to the aims of both green and grey belt policy as outlined in the revised National Planning Policy Framework

3. Cumulative Impact on Local Infrastructure and Planning Balance. Kings Hill and the surrounding areas are already experiencing significant pressure from ongoing and proposed developments. Introducing a permanent site in this location would place additional strain on local infrastructure, including roads, healthcare, education, and public services. Furthermore, the cumulative effect of such development's risks undermining the careful balance of planning decisions in the area, potentially leading to uncoordinated growth that does not align with the long-term strategic vision for Tonbridge and Malling.

4. Lack of Transparency and Community Engagement. The application appears to lack sufficient community consultation and does not adequately address the concerns of neighbouring parishes. We believe that a more collaborative and transparent approach is necessary when considering developments of this nature, especially those that may have long-term implications for planning policy and land use.

5.5 **Environmental Health Protection:** Contaminated land - No comments.

Informative's suggested.

During the demolition and construction phases, the hours of noisy working (including deliveries) likely to affect nearby properties should be restricted to Monday to Friday 07:30 hours - 18:30 hours; Saturday 08:00 to 13:00 hours; with no such work on Sundays or Public Holidays.

Although it would not be possible at this stage under Environmental Health legislation to prohibit the disposal of waste by incineration, the use of bonfires could lead to justified complaints from local residents. The disposal of demolition waste by incineration is also contrary to Waste Management Legislation. I would thus recommend that bonfires not be had at the site

5.6 **Waste Services:** Standard response on bin sizes etc.

5.7 **Southern Water Services:** The development site is not located within Southern Water's statutory area for water supply services.

5.8 **South East Water:** No response received.

5.9 **Environment Agency:** Thank you for consulting us. Due to the scale, nature and setting of this proposal and the supporting information submitted, we have

assessed this proposal as low risk. We therefore do not have any specific comments to add.

- 5.10 **Kent Highway Services:** It would appear that this development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements. If there are any material highway safety concerns that you consider should be brought to the attention of the HA, then please contact us again with your specific concerns for our consideration.
- 5.11 **Housing Services:** As planning consent has already been granted temporarily for use of the land above as a residential caravan site the site owner is required under the Caravan Sites and Control of Development Act 1960 (as amended by the Mobile Homes Act 2013) to apply for a caravan site licence this is also the case if consent is given for 25/00944/PA. The caravan site licence will have conditions attached that are there to protect the health and safety of the occupants and any visitors to the site. If the site is not occupied by the site owner and family members; or the site is to be run on a commercial basis the site owner will also be required to apply to go on the caravan site licensing 'Fit and Proper Person' register.
- 5.12 **Interested Parties:** Personal comments about the applicants that are not a material planning consideration have not been included in the summary of comments from interested parties. Comments have been summarised under relevant categories but as already stated above all comments have been reviewed in full.

Green Belt

- The site is located within an area designated as green belt, which serves to prevent urban sprawl and protect the countryside. Allowing permanent development in this area undermines the purpose of green belt land and sets a concerning precedent for future applications that may further encroach on these vital spaces.
- Paragraph 26 of the PPTS states that "Local planning authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan." This site is clearly located in open countryside, not identified within any settlement boundary, and not allocated for development in the Council's current or emerging Local Plan. As such, the proposal fails to comply with this key national policy, designed to protect the countryside from inappropriate and unsustainable development.
- This proposal, which involves multiple permanent structures, hardstanding, and regular vehicle movements, would cause unacceptable visual intrusion into a rural landscape and represents urbanisation of greenfield land—in direct contradiction to these local policies.

- Four static caravans, hard standing and service blocks would impose a permanent urban form that is highly visible from Birling Road and public paths, cutting both spatial and visual openness.
- Paragraph 25 of the Planning Policy for Traveller Sites allows only temporary permissions where a five-year pitch supply is absent and it expressly excludes Green Belt land. Need therefore carries limited weight.
- TMBC previously asserted that this land constitutes grey belt, but this is demonstrably incorrect. The Planning Inspectorate's decision was unequivocal: the land should be restored to its undeveloped status, as it existed prior to the unauthorised occupation, which was in breach of planning regulations. The site remains Green Belt and must be treated as such under planning policy.
- The Green Belt Guidance updated 27 February 2025 states: In order to identify grey belt land, authorities should produce a Green Belt assessment, either as part of the review of Green Belt boundaries during the preparation or updating of a local plan. Where grey belt is identified, it does NOT automatically follow that it should be allocated for development, released from the Green Belt or for development proposals to be approved in all circumstances. As no formal assessment has been undertaken by TMBC, I contend that any designation of 'grey belt' in this case is premature and without sufficient context or precedent.
- The mere fact that the site does not meet all Green Belt purposes to an extreme degree does not justify its reclassification. If this reasoning were widely applied, much of the Green Belt could be gradually undermined by piecemeal development.

Ancient Woodland

- The land in question lies directly adjacent to a protected Ancient Woodland and between this and an Area of Outstanding Natural Beauty (AONB). The latest application is both vexatious and undermines the integrity of the planning process, as well as the Planning Inspectorate's (PINS) previous decision.
- The land is Green belt and should remain as such before the adjacent Ancient Woodland is spoilt.
- Destruction of Woodland: The site was created by demolishing an area of established woodland, which is deeply concerning given the loss of natural habitat and negative environmental impact. This destruction is not in keeping with local conservation priorities and should not be legitimised by granting permanent permission.
- Grey belt is a relatively new policy consideration having been introduced in the 2024 version of the NPPF, with guidance published In the Spring of 2025. Appeal decisions are starting to be made that aids interpretation, but currently

there is not a wide body of evidence to draw upon. The Committee should consider carefully the implications of establish/ing grey belt precedents and planning strategy for traveller accommodation in this case and in advance of the Borough Council concluding its Local Plan work.

Ecology/wildlife

- The proposed development could negatively impact local wildlife and ecosystems.
- Green belts play a critical role in conserving biodiversity, protecting ecosystems, and maintaining natural habitats. Downgrading these areas can lead to habitat loss
- No Preliminary Ecological Appraisal has been supplied even though the plot borders ancient woodland and trees protected by preservation orders. This conflicts with National Planning Policy Framework paragraph 180 and Local Plan policy NE2.

Infrastructure

- The introduction of permanent residential facilities for multiple families will place additional demands on local infrastructure, including roads, utilities, and public services.
- A further development will only add to exasperate the currently over stretched Health and Education services in the area

Neighbour Amenity

- The intensity of use proposed on this site, combined with its location, is likely to cause disturbance to neighbours.
- It will cause light and noise pollution and lead to a loss of amenity
- Residents in Castle Way, Leybourne have had to put up with the noise from the camp that is carried across the field - generators, smoke pollution, light pollution, dogs barking etc
- If this turns into a permanent traveller site, then all those on the Leybourne Chase estate will be affected.
- An extension of the existing site will mean a loss of use of the woods.

Traffic/Access

- Increased traffic congestion
- Birling Road is a narrow country road

- The application proposes parking for 8 vehicles, representing a considerable increase in traffic in and out of the site. The local access roads are likely not designed for this volume or type of use, particularly involving towing caravans. This may raise serious highway safety concerns, especially for local residents, pedestrians, and cyclists.
- There is no evidence of a full transport or traffic impact assessment, and the proposed layout does not appear to address visibility splays, vehicle turning, or pedestrian safety—contrary to the guidance in NPPF Paragraphs 110–112.

General Comments

- This is a thin end of the wedge that the occupying people have to exploited,
- Object to the way this application has come about, ignoring planning rules in the first instance.
- Tonbridge and Malling Council do not need to provide housing as described in the planning application.
- TMBC should not be in the habit of approving development once it has already started
- The Council is currently in the process of preparing a new Local Plan, with a Gypsy and Traveller Accommodation Assessment (GTAA) and Call for Sites process underway. This application pre-empts that plan-led process and proposes an unallocated development in the absence of robust, up-to-date need data. Approving this application would undermine the integrity of the Local Plan process, which is meant to identify suitable sites in a sustainable and strategic way.
- Travellers sites do not belong on green belt land along with other permanent structures / housing etc, and brown field or grey belt land should be only be considered.
- The local council is currently preparing a new local plan that includes a Gypsy and Traveller Accommodation Assessment (GTAA) and Call for Sites process, where suitable sites will be identified in a strategic and sustainable way. This process should be allowed to conclude and the absence of a current plan whilst it is in development should not be a reason for allowing potentially inappropriate sites (such as this application).
- Birling Road lacks pavements and lighting, so occupants would rely on private vehicles. That conflicts with National Planning Policy Framework paragraphs 110 to 112 and Core Strategy policy CP2 which promote sustainable travel.

- The submission offers no evidence that the proposed package treatment plant or surface-water scheme meets National Planning Policy Framework paragraph 174 or emerging policy CC1 on flood risk.
- The original application was refused by Tonbridge and Malling Borough Council (TMBC), but permission was subsequently granted on appeal by PINS as a temporary approval limited strictly to five years to allow for continuity in children's education. The current application goes beyond the scope and spirit of that temporary consent.
- The applicants are not from the Tonbridge and Malling Borough, and as such, there is no obligation on the council to provide permanent accommodation for them in this area.

6. Determining Issues:

Policy Guidance

- 6.1 Under the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the Local Planning Authority is required to determine planning applications and other similar submissions in accordance with the Development Plan in force unless material considerations indicate otherwise.
- 6.2 The Development Plan currently in force for this area comprises the Tonbridge and Malling Local Development Framework Core Strategy (TMBCS) adopted in September 2007, the saved policies of the Tonbridge and Malling Borough Local Plan 1998 (TMBLP), Development Land Allocations DPD (DLA DPD) adopted in April 2008 and the Managing Development and the Environment DPD (MDE DPD) adopted April 2010.
- 6.3 The National Planning Policy Framework ("NPPF 2024") the associated National Planning Practice Guidance ("PPG") and National Design Guide are important material considerations.
- 6.4 In addition, Planning Policy for Traveller Sites (PPTS) (December 2024), TMBC Gypsy and Traveller and Travelling Show-person Accommodation Assessment (July 2022) and TMBC Gypsies, Travellers and Travelling Show-people Position Statement (December 2024) are also material considerations in this case.

Emerging Local Plan

- 6.5 On the 21 October 2025 the Housing and Planning Scrutiny Select Committee, recommended to the Council's cabinet that the next stage of the emerging draft Local Plan is moved forward, paving the way for the formal public consultation which commenced on 10 November 2025.
- 6.6 The emerging Local Plan sets out how the Council will meet the government's objectively assessed housing need requirement to deliver 19,746 new homes, 1097

per year. In addition, the emerging Local Plan (Emerging Policy SP4) also identifies the Council will need to provide an additional provision of 33 pitches for Gypsies and Travellers in accordance with the needs identified in the Gypsy and Traveller and Travelling Show-person Accommodation Assessment 2025 (GTAA).

- 6.7 The GTAA 2025 report identifies that there is potential to meet part of this need (18 pitches) by the regularisation of existing pitches on sites that are not permanently authorised, i.e those site that are lawful with temporary permission. The site falls within this category as currently the site has a temporary 5 year permission for 4 pitches.
- 6.8 Whilst the emerging Local Plan is at Regulation 18 stage and therefore carries limited weight, the evidence base in preparation for the emerging Local Plan and in this case the GTAA 2025 report is a material consideration in the determination of the application. The GTAA report provides clear evidence that there is a need for permanent Gypsy Traveller pitches within the Borough.

Gypsy Traveller Status

- 6.9 The application relates to an existing gypsy/traveller site albeit granted on a temporary basis. The definition of Gypsies and Travellers is set out in Annexe 1 PPTS (December 2024) as follows:

“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily or permanently, and all other persons with a cultural tradition of nomadism or of living in a caravan, but excluding members of an organised group of travelling show-people or circus people travelling together as such”.

- 6.10 The application is accompanied by personal information that Officers have reviewed, this information confirms the gypsy traveller status of the applicants and their dependents.

Principle of Development

- 6.11 As Members are aware, the Council cannot currently demonstrate an up-to-date five-year supply of housing when measured against its objectively assessed need (OAN).
- 6.12 In addition, as set out in TMBC Gypsies, Travellers and Travelling Show-people Position Statement (December 2024) the Council cannot demonstrate a 5 year supply of Gypsy and Traveller sites.
- 6.13 Furthermore as already stated above the GTAA 2025 report provides clear evidence that there is a need for 33 permanent Gypsy Traveller pitches within the Borough.

6.14 The provision of static units (Caravans) in this case, constitutes housing development. As a consequence, the presumption in favour of sustainable development as set out at paragraph 11 of the NPPF (2024) must be considered. For decision taking, in this case, this means:

d) 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.

6.15 In relation to Paragraph 11d (i) Footnote 7 (NPPF) provides a list of those policies that relate to protected areas and assets of particular importance, including land within the Green Belt, in which the application site lies. Therefore, it must first be established whether the policies in this Framework that protect areas or assets of particular importance provide a 'strong' reason for refusing the development.

Green Belt.

6.16 As noted above the site lies within the Metropolitan Green Belt, wherein Policy CP3 of the Core Strategy states that the Council will apply National Green Belt Policy. Paragraphs 153 – 160 of the NPPF relate specifically to the determination of proposals that affect the Green Belt.

6.17 Paragraph 153 of the NPPF requires local planning authorities, when considering applications, to ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

6.18 Paragraph 154 of the NPPF states that development in the Green Belt is inappropriate unless one of the listed exceptions (a to h) applies. In this case, the propose would not fall within any of the exception listed under paragraph 154 NPPF.

6.19 TMBC Core Strategy Policy CP20 includes a presumption against the development of gypsy and traveller accommodation in the Green Belt unless there are very

special circumstances. However, Policy E of the Planning Policy for Traveller Sites (PPTS) considers Traveller sites in the Green Belt to be inappropriate development unless the exceptions set out in the Framework apply. Policy CP20 is therefore inconsistent with national policy, and paragraph 232 of the Framework requires due weight be given to development plan policies according to their degree of consistency with the Framework and PPTS.

6.20 However, as members are aware in December 2024, the then, newly elected Labour Government updated the NPPF which included the introduction of Grey Belt.

6.21 Grey Belt is now a material consideration and an assessment to establish if the site is Grey Belt must be undertaken.

Grey Belt

6.22 Paragraph 155 states that the development of homes, (and caravans in this case, as noted above would relate to homes) commercial and other development in the Green Belt should also not be regarded as inappropriate where:

- a) The development would utilise 'grey belt' land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;
- b) There is a demonstrable unmet need for the type of development proposed;
- c) The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework; and
- d. Where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157.

6.23 Planning Practice Guide (PPG) explains that where Grey Belt land is not identified in an existing Local Plan or Green Belt assessments, it is expected that authorities should consider evidence and the illustrative features that are likely to indicate that a site or area 'strongly' contributes to the relevant Green Belt purposes [Paragraph 009 Reference ID: 64-009-2025022].

6.24 Turning first to criterion a) (para. 155) the NPPF at Annex 2 provides a definition for Grey Belt: this sets out that for the purposes of plan-making and decision-making, 'grey belt' is defined as:

*"Land in the Green Belt comprising previously developed land **and/or** any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in Paragraph 143. 'Grey belt' excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development"* (Officers emphasis added).

- 6.25 Therefore, the Grey Belt definition is clear, that a site does not need to be previously developed land to constitute Grey Belt. Any other land in the Green Belt has potential, under the changes to the NPPF, to constitute Grey Belt land providing policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a 'strong' reason for refusing or restricting development (Officers emphasis added).
- 6.26 The site is not located in any of the other assets referred to in footnote 7. Therefore, the next test is to establish if the parcel of land 'strongly' contributes to the Green Belt under purposes a), b), or d) as set out in Paragraph 143 (NPPF). These are:
- a) To check the unrestricted sprawl of large built-up areas.
 - b) To prevent neighbouring towns merging into one another
 - d) To preserve the setting and special character of historic towns
- 6.27 PPG has recently been updated to reflect the changes to the NPPF and now provides detailed guidance on how to assess Green Belt purposes [Paragraph: 005 Reference ID: 64-005-20250225]. In relation to purpose a) it notes that this purpose relates to the sprawl of large built-up areas. Moreover, PPG is very clear that 'villages' should not be considered large built-up areas.
- 6.28 Leybourne is considered to be a village, as such the proposal would not result in the sprawl of a large built-up area.
- 6.29 Turning next to purpose b) - To prevent neighbouring towns merging into one another, again PPG is clear that this purpose relates to merging of towns and not villages. Therefore, the proposal would not result in neighbouring towns merging into one another.
- 6.30 Lastly purpose d) - To preserve the setting and special character of historic towns. Leybourne is not an historic town and as with purpose a) and b) the PPG states *"This purpose relates to historic towns, not villages. Where there are no historic towns in the Plan area, it may not be necessary to provide detailed assessments against this purpose"*.
- 6.31 Therefore, to conclude on Para 155 criteria a), Officers are of the opinion that the site does not 'strongly' contribute to the 3 purposes of the Green Belt as set out above, as such the site would qualify as 'Grey Belt' land. This is confirmed by PPG which states *"After consideration of the above criteria, any assessment area that is not judged to strongly contribute to any one of purposes a, b, or d can be identified as grey belt land, subject to the exclusion of land where the application of the policies relating to the areas or assets in footnote 7 to the NPPF (other than Green Belt) would provide a strong reason for refusing or restricting development"*. [Paragraph: 007 Reference ID: 64-007-20250225].

- 6.32 Turning next to Criterion b) – There is a demonstrable unmet need for the type of development proposed. The Council cannot demonstrate a five year supply of deliverable Gypsy and Traveller site as confirmed within TMBC Gypsies, Travellers and Travelling Show-people Position Statement December 2024 and the GTAA report 2025. Therefore, there is a demonstrable unmet need for the type of development proposed. For clarity footnote 56 (NPPF) confirms in the case of traveller sites – means the lack of a five year supply of deliverable traveller sites assessed in line with Planning Policy for Traveller sites.
- 6.33 In regard to c), this requires development to be in a sustainable location. Footnote 57 also notes in the case of development involving the provision of traveller sites, particular reference should be made to Planning Policy for Traveller sites paragraph 13. Paragraph 13 (PPTS) notes:
- “Local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally. Local planning authorities should, therefore, ensure that their policies:
- a) promote peaceful and integrated co-existence between the site and the local community;
 - b) promote, in collaboration with commissioners of health services, access to appropriate health services;
 - c) ensure that children can attend school on a regular basis;
 - d) provide a settled base that reduces both the need for long-distance travelling and possible environmental damage caused by unauthorised encampment;
 - e) provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development;
 - f) avoid placing undue pressure on local infrastructure and services;
 - g) do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans; and
 - h) reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability”.
- 6.34 In this regard it is noted that the Inspector (appeal decision APP/H2265/C/21/3280661) at paragraph 15, considered the location of the site ‘suited to the development’, specifically stating, *“the site is not in open countryside that is away from existing settlements, and it is of a scale that would not dominate the nearest settled community or place undue pressure on local infrastructure”*. There has been no change to the site circumstances or the area to warrant coming

to a different conclusion. It was also noted in the same paragraph that amongst other things *'the site was reasonably accessible to shops, schools and other community facilities'*, and again there has been no change to the site circumstances or the area to warrant coming to a different conclusion. Therefore, there is no conflict with criterion c).

- 6.35 Criterion d) is not applicable in this case as the proposal does not comprise 'major' development. Major development involves 10 or more dwellings or a site area (for housing) of 0.5 hectares.
- 6.36 Therefore, to conclude on paragraph 155 (NPPF) the site would constitute Grey Belt land and would meet all 'relevant' criteria as set out in paragraph 155 (NPPF) and as such would be regarded as appropriate development.
- 6.37 Where a development is not inappropriate in the Green Belt, as in this case, this does not itself remove the land from the Green Belt nor require development proposals to be approved per se. In accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004, wider policies and considerations apply, including those in the area's adopted Plan, and in the NPPF read as a whole [Paragraph: 010 Reference ID: 64-010-20250225 PPG].
- 6.38 It therefore follows that as appropriate development Paragraph 11 d (ii) is engaged and planning permission should be granted unless 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.

Clarification on matters relating to Green Belt and Grey Belt.

- 6.39 Before moving on to consider the application against other policy requirements, Officers consider it important to address the evidence base for the emerging Local Plan and some of the comments raised by interested parties in relation to Green Belt/Grey Belt.
- 6.40 Turning first to the emerging Local Plan. As part of the evidence base for the emerging Local Plan, a Stage 1 Green Belt Assessment (dated September 2025) has been undertaken, the site falls within a wider parcel, P7 which includes, Leybourne Chase, Medway Gap, Addington, Addington Clearway, Wrotham Heath, Borough Green and Platt. However, the output of this study is intended to assist the Council with its plan making and development of its spatial strategy. The analysis is not intended to be used to identify grey belt land as it is not sufficiently granular to do so, as required by the Green Belt PPG.
- 6.41 Third party comments in regard to the purposes of the Green Belt, reference criterion c) - To assist in safeguarding the Countryside from encroachment. As set

out above the NPPF and PPG is clear that when assessing Grey Belt, consideration in relation to purpose c) is not required or undertaken as part of the Grey Belt assessment. Therefore, Officers when considering Grey Belt are unable to assess the application under purpose c).

- 6.42 Comments have referred to the temporary use stating “*The argument that previous temporary use for a traveller site somehow alters the land’s Green Belt status is misleading. Temporary permissions are explicitly designed to be reversible and should not be used as a basis for reclassification*”. In the assessment of Grey Belt, the temporary use of the site does not come into play. The definition of Grey Belt is clear and includes any other land. The Grey Belt assessment undertaken above has been undertaken on the parcel of land itself and not the temporary use.
- 6.43 Comments have been made relating to the previous appeal decision and that the Planning Inspectorate’s decision was unequivocal stating that the land should be restored to its undeveloped status.
- 6.44 There has been a fundamental change to national planning policy since the appeal decision was granted. This change in national policy is a material consideration. Therefore, officers when assessing the application must give greater weight to the updated NPPF over the previous appeal decision in relation to Green Belt.
- 6.45 Furthermore, whilst paragraph 153 (NPPF) states when considering any planning application. LPA’s should ensure that substantial weight is given to any harm to the Green Belt, including harm to openness, footnote 55 (NPPF) is clear that this weight is not afforded in the case of development on previously developed land or Grey Belt Land where development is not inappropriate.
- 6.46 Comments have been made that “*Approving this application could set a concerning precedent, where temporary or unauthorised land use is later legitimised through reinterpretation of planning policy. Which risks undermining the integrity of the planning system and could open the door to similar applications across Kent and beyond, particularly in areas where green or grey belt protections are intended to manage sustainable development*”. It has also been stated that “*The mere fact that the site does not meet all Green Belt purposes to an extreme degree does not justify its reclassification. If this reasoning were widely applied, much of the Green Belt could be gradually undermined by piecemeal development*”.
- 6.47 Comments have also been made that the assessment of sites which could potentially be considered Grey Belt should be undertaken as part of the Local Plan process. As no formal assessment has been undertaken by TMBC, comments have states that “*it is contended that any designation of ‘grey belt’ in this case is premature and without sufficient context or precedent*”.
- 6.48 Whilst the designation of Green Belt does not change as a result of the introduction of Grey Belt. The introduction of Grey Belt land is a material consideration and

cannot be downplayed or ignored when LPA's are assessing applications for housing regardless of the status of the Council's existing/emerging Local Plan.

- 6.49 As set out in the Grey Belt assessment above, PPG explains that where Grey Belt land is not identified in an existing Local Plan or Green Belt assessments, it is expected that authorities should consider evidence and the illustrative features that are likely to indicate that a site or area 'strongly' contributes to the relevant Green Belt purposes (Paragraph 009 Reference ID: 64-009-2025022).
- 6.50 The Government is clear in its objectives to boost the supply of housing, and the new Grey Belt designation has a role to play in achieving the Government aims. Failure to consider Grey Belt (where appropriate) would leave the Council open to cost in relation to appeals.
- 6.51 Finally, comments have been made in relation to The Planning Policy for Traveller Sites (PPTS) which states that Green Belt protection should only be overridden in truly exceptional circumstances, which third party comments contend has not been demonstrated in this case.
- 6.52 Paragraph 1 of the PPTS states that "*This document sets out the Government's planning policy for traveller sites. It should be read in conjunction with the National Planning Policy Framework*". Therefore, whilst paragraph 16 of the PPTS states "*Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Traveller sites (temporary or permanent) in the Green Belt are inappropriate development unless the exceptions set out in Chapter 13 of the National Planning Policy Framework apply*", this document must be read alongside the NPPF and that includes Grey Belt policy and where appropriate as in this case, a Grey Belt assessment must be undertaken.

Very Special Circumstances v Planning Balance Scenario

- 6.53 Whilst Officers are of the opinion that the site constitutes Grey Belt meeting the criteria of Paragraph 155 and therefore would be appropriate development (and moreover as appropriate development, as set out in footnote 55 (NPPF) where development is appropriate harm to the Green Belt is not for consideration). Should Members form a different view and consider the site not Grey Belt and therefore inappropriate development in the Green Belt, the following assessment aims to consider such a scenario but is without prejudice to officers' opinion.
- 6.54 The Framework makes it clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Harm to Openness

- 6.55 With regard to openness, the leading court cases of *Turner [2016]* and *Samuel Smith [2020]* and numerous subsequent appeal decisions have confirmed that Green Belt openness has a spatial dimension and a visual dimension. PPG explains that “*Assessing the impact of a proposal on the openness of the Green Belt, where it is relevant to do so, requires a judgement based on the circumstances of the case*”. It also confirms that “*openness is capable of having both spatial and visual aspects, in other words, the visual impact of the proposal may be relevant, as could its volume*” (Paragraph: 013 Reference ID: 64-013-20250225).
- 6.56 Moreover, it must not be forgotten that these dimensions work in tandem and not in isolation, and in context, a synergy that is not always transparent in assessments of effects on openness, which can appear heavily weighted towards the spatial aspect.
- 6.57 Therefore, when assessing whether the development as a whole would/would not cause harm on the openness of the Green Belt, it is necessary to look at the wider implications of the proposal and to consider it within its context. The impact on openness will vary according to factors such as size and scale, and the prominence from public and private viewpoints.
- 6.58 Looking at it solely in a spatial dimension, the proposal would result in a reduction in the spatial aspect of the Green Belt’s openness through providing built form and structures on the site where there would otherwise be open fields. The residential use of the land would also lead to domestic paraphernalia across the site, including parking areas and an increase in activity.
- 6.59 In terms of the visual effects, the proposed structures would be single storey in form with a modest mass and, once in the location shown on the proposed plans, visibility from public viewpoints would be limited given their distance from the highway and from the nearby public footpath. The existing landscaping provides good screening from the wider area and does not require a ‘substantial enclosure’ to mitigate effects on the surrounding open countryside. This is particularly important as the advice in the PPTS states that sites should not be enclosed to such an extent that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.
- 6.60 The fact that the four touring caravans would not permanently be on site would also help to mitigate an impact of the layout.
- 6.61 Therefore, both the fixed infrastructure and the mobile elements have the effect of reducing the openness of the Green Belt, both visually and spatially, while the harm to the openness is reduced due to the single storey form and existing landscaping, the intrusion into formerly undeveloped open land conflicts with one of the purposes of Green Belts, that of assisting in safeguarding the countryside from encroachment.
- 6.62 The harm whilst considered to be modest is still a matter to which significant weight must be given in the planning balance.

Need of Pitches

- 6.63 PPTS requires local planning authorities to make their own assessment of need for the purposes of planning, to set pitch targets for travellers which address the likely needs, and to identify a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets.
- 6.64 It is not disputed that the Council cannot demonstrate a five year supply of deliverable sites and acknowledge that the shortfall in both past delivery and future supply is significant. The Gypsies, Travellers and Travelling Show-people Position Statement December 2024 concludes that there is an overall cultural need for additional Gypsy and Traveller pitches across the borough over the Plan period of 2021/22 to 2039/40.
- 6.65 In addition, as stated previously the GTAA 2025 report identifies the Council will need to provide an additional provision of 33 pitches for Gypsies and Travellers in accordance with the needs identified.
- 6.66 Based on the current position the shortfall amounts to a significant unmet need for pitches. Whilst work is progressing on a new Local Plan, which will seek to address the supply of pitches to meet unmet need, it must be also be acknowledged that the need for pitches exists now and this unmet need has persisted for a number of years. Officers considers this carries significant weight in the planning balance.
- 6.67 Moreover, the GTAA 2025 report identifies that there is potential to meet part of this need (18 pitches) by the regularisation of existing pitches on sites that are not permanently authorised, i.e those site that are lawful with temporary permission. The site falls within this category as currently the site has a temporary 5 year permission for 4 pitches. Officers consider this carries significant weight in the planning balance.
- 6.68 Furthermore, it is also noted that there are no available, affordable alternative sites currently available, and lack of alternative accommodation attracts significant weight in the planning balance.
- 6.69 These factors indicate significant need for gypsy and traveller sites now and in the future, this coupled with a persistent failure of policy and the uncertainty of future means to meet the need, carries significant weight in favour of the development in the planning balance.

Personal circumstances/Equality Act 2010: Equality Impact

- 6.70 The site would be occupied by four families, all of which would meet the definition of Gypsies and Travellers set out in the PPTS. Article 8 imposes a positive obligation to facilitate the gypsy way of life, and, as a minority group, special consideration should be given to their needs and lifestyle. In addition, gypsies share the protected characteristic of race for the purposes of the Public Sector Equality Duty under

Section 149 of the Equality Act 2010, which sets out the requirement to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not.

- 6.71 This duty requires public authorities, including the Council, to have due regard to the need to:
- Eliminate unlawful discrimination, harassment, and victimisation;
 - Advance equality of opportunity between people who share a protected characteristic and those who do not; and
 - Foster good relations between people who share a protected characteristic and those who do not.
- 6.72 In the context of planning, equalities considerations are embedded throughout the planning process. This begins with the formulation and adoption of planning policies at the national, strategic, and local levels, including any supplementary planning guidance. These policies are subject to statutory processes that include assessments of their impacts on protected groups.
- 6.73 For individual development proposals, further consideration is given to the potential equality impacts where relevant. In this case, all relevant policies from the Tonbridge and Malling Development Plan and the National Planning Policy Framework (NPPF) have been considered in the assessment of the application. These policies have been subject to equality impact assessments during their adoption, in accordance with the Equality Act 2010 and prior legalisation and the Council's obligations under the PSED.
- 6.74 Accordingly, the adopted planning Framework used in the assessment of this application is considered to reflect and support the needs of individuals with protected characteristics, as defined by the Equality Act 2010 and previous legislation. These characteristics include: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- 6.75 The existing authorised, albeit temporary site, comprises four pitches, the proposed development would not alter the number of pitches this will remain as four, nor would it increase the number of occupants, but it does seek to increase the number of static and touring caravans on the site, so as to provide 1 static, 1 touring caravan and 1 day unit for each pitch. The four pitches would be occupied by four families which are all related and provided support to each other.
- 6.76 Where Article 8 rights are those of children, as in this case, they must also be seen in the context of Article 3 of the United Nations Convention on the Rights of the Child. This requires a child's best interests to be a primary consideration. In particular, case law identified that, although a primary consideration, the best interests of a child are not a determinative planning issue, but that no consideration

must initially be regarded as more important or, in advance of the subsequent assessment of the individual circumstances, be given greater weight.

- 6.77 A number of the occupants, including children, have significant health issues, and living at the site has been highly beneficial in this respect, allowing access the health care and not least in terms of the positive environment it provides for the children's upbringing. Two of the children attend the local primary school. The school has provided a letter confirming how well these children are doing at the school and how the whole family are valued members of the school community. The school believe that continuing their education with the school, will offer them stability and the opportunity to continue the amazing progress they have already made. Moreover, the school believes that by contrast a change of school will be both detrimental and disruptive for the children and their parents.
- 6.78 The proposal would provide a settled base for the children and their best interests therefore need to be carefully considered. Their best interests would be served by a permanent and secure, culturally appropriate home, allowing their education to continue uninterrupted even more so for those with identified special education needs.
- 6.79 Notwithstanding the significant level of local objection, living at the site has enabled a degree of integration with the local community, in particularly one of the adult occupants, runs two local football teams, one for under 7's and one for 7 to 10 year olds, teams practice 2 a week with matches played at the weekends.
- 6.80 The proposal would facilitate the establishment of a permanent base from which to pursue a nomadic lifestyle. This would allow cultural traditions to be balanced with the practicalities of modern living, thereby advancing equality of opportunity. It would also allow for children to access education as their needs grow. The absence of a five-year supply of pitches also indicates inequality in housing opportunities and the proposal would help to offset this. These are important points in achieving the social sustainability sought by Paragraph 13 of the PPTS.
- 6.81 The proposal would provide an enduring settled permanent base which would enable access to education, healthcare and generally support the children's welfare by, for example, attending clubs, making friends and being close to family. The merits of the case presented are such that the benefits of the proposal to the best interests of the children would attract significant weight in the planning balance.

Planning Balance/conclusion to VSC scenario.

- 6.82 As set out above by definition, inappropriate development is harmful to the Green Belt, and further harm arises through the loss of openness and encroachment on the countryside. This carries significant weight.
- 6.83 The sum of this harm must be balanced against the factors in favour of the proposal. At present, the Council has a significant level of unmet need for traveller

sites, nor is there any alternative site at present. Moreover, the strategy for addressing the need has yet to be developed through the local plan preparation process. This attracts significant weight.

- 6.84 The beneficial aspects of the site for its occupants, particularly so when it comes to the interests of the children in terms of stability and access to healthcare and education, would assist in terms of the duty to advance equality of opportunity for the occupiers who, by virtue of their ethnicity, are at risk of discrimination, harassment, and victimisation. The needs of some of the proposed occupants are less pressing, but the living arrangements, whereby an extended family live together for mutual support, is characteristic of the gypsy way of life, and so the proposal would be consistent with the Government's aim of facilitating the traditional and nomadic way of life of travellers. This also attracts significant weight.
- 6.85 Officers consider that on balance whilst the proposal would result in harm to openness, the benefits arising from the provision of four permanent pitches for Gypsies and Travellers which will assist in meeting the Councils demonstrable unmet need, together with the best interests for the children who would be served by a permanent and secure, culturally appropriate home, allowing their education to continue uninterrupted and also for those with identified special medical needs, would outweigh the harm.

Gypsies/Travellers

- 6.86 Turing back to an assessment under Paragraph 11 d(ii). Although somewhat dated Policy CP20 of the TMBCS specifically relates to Gypsies, Travellers and Travelling Show-people. Part 1 refers to the Gypsy and Traveller Development Plan Document 2008 and the now defunct South East Plan, stating that first consideration will be given to the limited expansion of one or both of the publicly controlled sites in the Borough.
- 6.87 Part 2 sets out specific criteria against which applications for accommodation for gypsies and travellers are to be assessed, this being:
- a) there is an identified need that cannot reasonably be met on an existing or planned site;
 - b) residential or rural amenity is not prejudiced as a result of visual intrusion, excessive noise, lighting, traffic generation or activity at unsocial hours;
 - c) the site respects the scale of, and does not dominate, the nearest settled community;
 - d) the site can adequately be accessed by vehicles towing caravans and there is safe pedestrian and cycle access to the site; and

e) the site is reasonably accessible to shops, schools and other community facilities on foot, by cycle or public transport;

- 6.88 The policy concludes that there will be a presumption against the development of gypsy and traveller accommodation (including sites for travelling show-people) in the Green Belt unless there are very special circumstances. As stated above, this element of the policy no longer accords with the NPPF and Planning Policy for Traveller Sites (PPTS) 2024.
- 6.89 As already acknowledged the Council cannot demonstrate a 5 year supply of housing or pitches for gypsies and travellers so there is a clear identified need and thus the proposal meets criterion a) of policy CP20.
- 6.90 The proposal relates to an existing albeit temporary site, there would be no increase in the number of pitches or families on the site, it is not considered that the proposal would result in any significant increase in usage which would prejudice local residential and/or rural amenity as such the proposal would accord with criterion b).
- 6.91 As already stated, the number of pitches would not increase as such the scale of the development would not dominate the nearest settled community, thus the proposal meets criterion c) of policy CP20.
- 6.92 With regard to traffic movement, it is also necessary to consider Policy SQ8 of the MDE DPD which states that development will only be permitted where there will be no significant harm to highway safety. In addition, paragraph 116 (NPPF) continues to state that development should only be refused on transport grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts of the development would be severe. The potential increase in traffic movement would be minimal and as such would not have a severe impact on highway safety. Consequently, the proposal meets criterion d) of policy CP20, in addition to the other relevant local and national planning policies.
- 6.93 Whilst there is not cycle access per se to the site, it has already been noted by the Inspector that the site is reasonably accessible to shops, schools and other community facilities. It can therefore be concluded that the proposal meets criteria d) and e) of policy CP20.

Character and Appearance

- 6.94 In terms of policy context, Policy CP24 of the TMBCS requires development to be of a high quality and be well designed to respect the site and its surroundings in terms of its scale, layout, siting, character and appearance. Policy SQ1 of the MDEDPD advises that new development should protect, conserve and, where possible, enhance the character and local distinctiveness of the area including its setting in relation to the pattern of the settlement, roads and surrounding landscape.

- 6.95 These policies are broadly in conformity with those contained within the Framework which relate to quality of new developments, in particular paragraph 135 of the NPPF that requires proposals to be visually attractive as a result of good architecture, layout and appropriate and effective landscaping. Schemes should also be sympathetic to local character and history, including the surrounding built environment and landscape setting.
- 6.96 The existing site comprises four pitches, all four pitches have temporary permission for touring caravans and parking/turning areas, two of the pitches (to the southern end) have temporary permission for a static caravan each together with day/utility rooms.
- 6.97 This application would not alter the existing caravans or the day/utility rooms and associated infrastructure on the site but would allow these to be permanent. The proposal would, also, introduce two further permanent static caravans and two day/utility rooms to the two pitches to the northern end.
- 6.98 The proposal would not increase the size of the pitches or the site as such there would be no further harm on the character and appearance of the area.
- 6.99 The additional static caravans and day rooms would fit in with the overall form and layout of their surroundings, it is therefore considered that the proposal would be in compliance with paragraph 135 (NPPF), Policy CP24 of the Tonbridge and Malling Borough Core Strategy and Policy SQ1 Managing Development and the Environment Development Plan.

Neighbour Amenity

- 6.100 Policy CP24 of the Tonbridge and Malling Borough Core Strategy requires that all development must be well designed and respect the site and its surroundings. It outlines that development by virtue of its design which would be detrimental to amenity will not be permitted.
- 6.101 Paragraph 135 (f) of the NPPF advises that:
- “Planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users”.*
- 6.102 Consultation responses from neighbouring residents have raised concerns regarding the intensification of use on this site, and that this is likely to cause disturbance to neighbours. Concerns have also been raised in regard to light and noise pollution leading to the loss of neighbour amenity.
- 6.103 The nearest neighbour is to the west of the site, (55 The Paddocks) and is approximately 90 metres from the pitches themselves. 71 Leybourne House to the north west is around 160 metres from the dwelling to the pitches, 33 - 39 Birling

Road to the south west are around 135 metres from the closest pitch. Residents at Leybourne Chase which have been reference in third party comments would be almost 400 metres from the nearest dwelling (Charlotte Way) to the closest pitch.

- 6.104 Moreover, as stated above the number of pitches would not increase as a result of the proposal nor would there be any significant increase in the number of occupants. The site is reasonably well screened and set back from Birling Road by some 57 metres.
- 6.105 This distance coupled with the mature trees to the west of the site, and the site boundary treatment, is considered sufficient to ensure that the proposal would not harm neighbour amenity as such accords with Policy CP24 of the Tonbridge and Malling Borough Core Strategy and the aims of the NPPF.

Access and Parking

- 6.106 Paragraph 115 of the NPPF states that, in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that, inter alia, safe and suitable access to the site can be achieved for all users. Paragraph 116 adds 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 would be severe.
- 6.107 Policy SQ8 of the Managing Development and the Environment DPD states that development proposals should comply with the adopted parking standards and development proposals will only be permitted where they would not significantly harm highway safety.
- 6.108 Third party comments have raised comments in relation to Birling Road being a narrow country road, and that the proposal would result in increased traffic congestion. Comments have also suggested "*there is no evidence of a full transport or traffic impact assessment, and the proposed layout does not appear to address visibility splays, vehicle turning, or pedestrian safety—contrary to the guidance in NPPF Paragraphs 110–112*".
- 6.109 The existing access is to remain and there is sufficient space to accommodate off street parking and for vehicles/touring caravans to turn within the site and exit in a forward gear.
- 6.110 KCC Highways were consulted on the proposal, however, the KCC response confirmed that the development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements.
- 6.111 Moreover, the site is also not of a size to warrant or justify the need for a transport statement. Paragraph 116 (NPPF) is clear 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 would be severe.

- 6.112 It is therefore considered that the access and parking proposals comply with Core Strategy Policies CP2, Managing Development and the Environment DPD Policy SQ8 and the NPPF.

Ecology and Biodiversity.

- 6.113 Paragraph 187 of the NPPF advises planning decisions should contribute to and enhance the natural environment, including protecting and enhancing sites of biodiversity and minimising impacts on and providing net gains for biodiversity. Paragraph 186 of the NPPF states if significant harm to biodiversity resulting from a development cannot be avoided through relocation, mitigation or compensated for, then planning permission should be refused, whilst opportunities to improve biodiversity in and around developments should be integrated as part of their design.
- 6.114 Policy NE2 Managing Development and the Environment Development Plan, outlines that the biodiversity of the Borough and in particular priority habitats, species and features, will be protected, conserved and enhanced.
- 6.115 Policy NE3 Managing Development and the Environment Development Plan also states development that would adversely affect biodiversity or the value of wildlife habitats across the Borough will only be permitted if appropriate mitigation and/or compensation measures are provided which would result in an overall enhancement. Proposals for development must make provision for the retention of the habitat and protection of its wildlife links. The Council will impose conditions, where necessary and appropriate, to minimise disturbance, protect and enhance a site's ecological conservation value, to ensure appropriate management and monitoring and creating new or replacement habitats of enhanced ecological value.
- 6.116 Turning first to ecology, Leybourne Parish Council has raised concerns that *“no Preliminary Ecological Appraisal (PEA) has been conducted and without robust ecological evidence, the long-term impact of this proposal on biodiversity remains unknown and unaddressed”*.
- 6.117 Third party comment have also stated that *“No PEA has been supplied even though the plot borders ancient woodland and trees protected by preservation orders. This conflicts with National Planning Policy Framework paragraph 180 and Local Plan policy NE2”*
- 6.118 Interested parties have also referred to the site being between Ancient Woodland and close to an Area of Outstanding Natural Beauty (Now known as National Landscapes).

- 6.119 The site is not adjacent to an Ancient Woodland area. The Ancient Woodland lies approximately 140 metres to the south of the site. Also, for clarification there are no TPO's on the site nor does the site lie within or close to an area of National Landscape to warrant consultation/consideration of these policy constraints.
- 6.120 In regard to ecology the site is an established albeit temporary gypsy traveller site which comprises all hard standing within the site itself, together with landscaping to the boundary, the application would not alter this and as such there is no justification to require a PEA appraisal to be undertaken. The additional caravans/dayroom would be sited on existing hardstanding.
- 6.121 In regard to biodiversity, it is now a national requirement that small scale developments must provide at least a 10% biodiversity net gain. However, there are exemptions to BNG this includes (but not limited to) applications that are considered to fall under the De Minimis Exemption.
- 6.122 The application is accompanied by a biodiversity statement. The applicant is claiming an exemption from BNG in relation to the application being 'De Minimis'. This being that the development does not impact on priority habitats or has a minimal impact on other habitats (less than 25 square meters of on-site habitat or 5 meters of linear habitat) are exempt.
- 6.123 As stated above the existing area is currently all hard surface and the additional two static caravans and two dayrooms would be sited on the existing hard surface. The permanent use of the site would not alter the biodiversity of the site.
- 6.124 Therefore, to conclude on BNG the proposal would meet the De Minimis exemption.

Other Matters

- 6.125 Officers are aware of a recent appeal decision in the Borough that is considered to be a material consideration. This is:
- TM/23/03168 - APP/H2265/W/24/3349987 - Kooland, Rochester Road, Burham,
 - Appeal Decision 24 June 2025
- 6.116 The development proposed is the change of use of land to use as a residential caravan site for one Gypsy family with two caravans, including no more than one static caravan/mobile home together with laying of hardstanding and erection of ancillary amenity building
- 6.126 This appeal was part allowed, and part dismissed. The dismissed element related to an ancillary amenity building due to its location within National Landscape designation, the element allowed albeit temporary, related to the change of use of the land to a use as a residential caravan site for one Gypsy family with two caravans, including no more than one static caravan/mobile home together with laying of hardstanding.

- 6.127 Officers note the Inspectors comment in relation to the emerging Local Plan (Paragraph 55 appeal decision) however, officers consider there are material differences between the appeal decision and the application presented to members. The appeal site is not within the Green Belt and as such the Inspector did not need to undertake a Grey Belt assessment. Had this been undertaken the Inspector may have formed a view that the site was Grey Belt and as Grey Belt (meeting all the relevant criteria in Paragraph 155 (NPPF)) the Inspector may have concluded the site was appropriate development as officers have done so in this case.
- 6.128 Moreover, the Inspector gave weight to the stage of preparation of the emerging Local Plan which noted that that a Regulation 19 consultation was scheduled for December 2024. This did not take place, due to changes in national. Moreover, since this Appeal decision, the emerging Local Plan has moved forward as already outlined in the emerging Plan section above and the GTAA 2025 which forms part of the evidence base for the emerging Plan has been published.

Conclusion

- 6.129 The site would constitute Grey Belt land and would meet all 'relevant' criteria as set out in paragraph 155 (NPPF) and as such would be regarded as appropriate development.
- 6.130 It therefore follows that as appropriate development Paragraph 11 d (ii) is engaged and planning permission should be granted unless 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.
- 6.131 As Grey Belt land there are no policies in the Framework that would provide a 'strong' reason for refusing the development proposed, moreover, no adverse impacts of doing so have been identified that would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 6.132 Therefore, the presumption in favour of development must apply in this case and consequently, the application is recommended for approval subject to conditions.

7. Recommendation: Approved subject to the following:

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

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990

2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

- Location Plan Drawing No. LP-02-2025
- Block Plan Drawing No. BP-LS-03-2025
- Proposed Utility Blocks Drawing No. UB-01-2025-Birling
- Design and Access Statement By BFSGC dated 30 May 2025
- Biodiversity Statement dated 30 May 2025
- Flood Risk Map Drawing No. FRA-01 dated 30 May 2025
- Flood Risk Map Drawing No. FRA-02 dated 30 May 2025

Reason: For avoidance of doubt and in the interests of proper planning.

3) No more than four mobile homes/ static caravans and four touring caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site (shown on the red outline) at any time. The touring caravans on site which are not static caravans or mobile homes shall not be separately occupied.

Reason: To ensure the development does not harm the character and appearance of the area or visual amenity of the locality.

4) The caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended shall be sited in accordance with the proposed Block Plan Drawing No. BP-LS-03-2025.

Reason: to ensure the development does not harm the character and appearance of the area or visual amenity of the locality.

5) The site shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons as defined in Planning Policy for Traveller Sites, 2024 (or any subsequent definition that supersedes that document).

Reason: To ensure the site provides accommodation for those who meet the definition of Gypsies and Travellers.

6) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site and no commercial activities shall take place on the land, including the storage of materials.

Reason: to ensure the development does not harm the character and appearance of the area or visual amenity of the locality.

7) Notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no

gates, walls or fences or other means of enclosure including bunding, shall be erected on the site.

Reason: To enable the Local Planning Authority to regulate and control any such further development in the interests of amenity and privacy.

- 8) No additional external lighting shall be installed on the site until details have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the development does not harm the character and appearance of the area or visual amenity of the locality.

Informatives

- 1) Although it would not be possible at this stage under Environmental Health legislation to prohibit the disposal of waste by incineration, the use of bonfires could lead to justified complaints from local residents. The disposal of demolition waste by incineration is also contrary to Waste Management Legislation. It is recommended that no bonfires are undertaken at the site.
- 2) Your attention is drawn to the comments within TMBC Waste Services response dated 27 June 2025.

Contact: Susan Field