
Appeal Decisions

Hearing held on 25-27 June 2019 and site visit made on 27 June 2019

by D Fleming BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 August 2019

Notice A: Appeals A-D, Refs: APP/U2235/C/18/3197294-97

Land adjacent The Potters, known as 'Faithfields', Love Lane, Headcorn, Kent TN27 9HJ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by the persons named in Appendix 1 against an enforcement notice issued by Maidstone Borough Council.
 - The enforcement notice was issued on 16 February 2018.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised change of use of land to residential use as a gypsy/traveller site including, the stationing of caravans, utility/shed, hard standing and associated works which is contrary to both national guidance and local development policies.
 - The requirements of the notice are:
 - (i) Cessation of the residential use on the land within the red outline on the plan attached to the notice.
 - (ii) Removal of all caravans, the amenity block and any other structure and associated paraphernalia in connection with the residential use on land within the red outline on the plan attached to the notice.
 - (iii) Removal of hard surfacing under, around and leading to all caravans and structures from the land within the red outline on the plan attached to the notice.
 - (iv) Removal from the land all resultant materials from complying with requirements steps (ii) and (iii).
 - The period for compliance with the requirements is three months.
 - Appeal A is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. Appeals B-C are proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.
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Appeal E, Ref: APP/U2235/W/17/3192403

Faithfield, Love Lane, Headcorn, Ashford, Kent TN27 9HJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Katy Kettle against the decision of Maidstone Borough Council.
 - The application, Ref 15/503944, dated 6 May 2015, was refused by notice dated 13 December 2017.
 - The development proposed is described as "Change of use of land from grazing to residential for a mobile home for gypsy family".
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Notice B: Appeals F-I, Refs: APP/U2235/C/18/3197279-81 and 3197278

Land south of Love Lane, opposite Little Luckhurst Farm, known as 'Smith View', Headcorn, Kent TN27 9HJ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as

- amended by the Planning and Compensation Act 1991.
- The appeals are made by the persons named in Appendix 1 against an enforcement notice issued by Maidstone Borough Council.
 - The enforcement notice was issued on 5 February 2018.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised change of use of land to residential use as a gypsy/traveller site including, the stationing of caravans, amenity block, hard standing and associated works, which is contrary to both national guidance and the local development policies.
 - The requirements of the notice are:
 - (i) Cessation of the residential use on the land within the red outline on the plan attached to the notice.
 - (ii) Removal of all caravans, the amenity block and any other structure and associated paraphernalia in connection with the residential use on land within the red outline on the plan attached to the notice.
 - (iii) Removal of hard surfacing under, around and leading toward caravans and structures from the land within the red outline on the plan attached to the notice.
 - (iv) Removal from the land all resultant materials from complying with requirements steps (ii) and (iii).
 - The period for compliance with the requirements is three months.
 - Appeal F is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. Appeals G-I are proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.
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Appeal J, Ref: APP/U2235/W/18/3197271
Smith View, Love Lane, Headcorn, Ashford, Kent TN27 9HJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Danny Smith against the decision of Maidstone Borough Council.
 - The application, Ref 15/509317, dated 26 October 2015, was refused by notice dated 5 December 2017.
 - The development proposed is described as "Change use of land from grazing to residential for a mobile home and small touring caravan for gypsy family".
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Notice C: Appeals K-M, Refs: APP/U2235/C/18/3197834-36
Land opposite Little Luckhurst, known as Potters Nursery, Love Lane, Headcorn, Kent TN27 9HJ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by the persons named in Appendix 1 against an enforcement notice issued by Maidstone Borough Council.
 - The enforcement notice was issued on 20 February 2018.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised change of use of land to residential use as a gypsy/traveller site for one gypsy family including the stationing of caravans, conversion of agricultural building to part residential and all hard standing other than that approved under planning application MA/12/1568 which is contrary to both national guidance and the local development policies.
 - The requirements of the notice are:
 - (i) Cessation of the residential use on the land within the red outline on the plan attached to the notice.
 - (ii) Cessation of the residential use of the agricultural building indicated in the green hatched area on the plan attached to the notice.
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- (iii) Removal of all caravans and any other structure in connection with the residential use on land within the red outline on the plan attached to the notice.
 - (iv) Removal of hard surfacing under and around all caravans and structures from the land other than that approved under MA/12/1568 within the red outline on the plan attached to the notice.
 - (v) Removal from the land all resulting materials from complying with requirements steps (iii) and (iv).
 - The period for compliance with the requirements is three months.
 - Appeal K is proceeding on the grounds set out in section 174(2)(a), (e) and (g) of the Town and Country Planning Act 1990 as amended. Appeals L-M are proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.
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Notice D: Appeal N, Ref: APP/U2235/C/18/3197285

Land on south side of Love Lane, Love Lane, Headcorn, Kent TN27 9HL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr R Makepeace against an enforcement notice issued by Maidstone Borough Council.
 - The enforcement notice was issued on 16 February 2018.
 - The breach of planning control as alleged in the notice is without planning permission, the change of use of land from agriculture to mixed use for the keeping of horses and for stationing of caravans for residential occupation by one family with associated development (driveway, hard standing, septic tank, utility building) and stable block with associated hard standing and manure store, which is contrary to both national guidance and the local development policies.
 - The requirements of the notice are:
 - (i) Cessation of the residential use on the land within the red outline on the plan attached to the notice.
 - (ii) Removal of all caravans, the amenity block, stable block, access gates and associated fencing and any other structure and associated paraphernalia in connection with the residential use on land within the red outline on the plan attached to the notice.
 - (iii) Removal of hard surfacing under, around and leading toward caravans and structures from the land within the red outline on the plan attached to the notice.
 - (iv) Removal from the land all resultant materials from complying with requirement steps (ii) and (iii).
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal O, Ref: APP/U2235/W/17/3192402

Land on south side of Love Lane, Love Lane, Headcorn, Kent TN27 9HL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Robert Makepeace against the decision of Maidstone Borough Council.
 - The application, Ref 15/501189/FULL, dated 6 February 2015, was refused by notice dated 14 December 2017.
 - The development proposed is the material change of use of land from agriculture to mixed use for the keeping of horses and for stationing of caravans for residential occupation by one family with associated development (driveway/hard standing, septic tank, utility building) and stable block with associated hard standing and manure store.
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Appeal P, Ref: APP/U2235/W/18/3197461
Rosings, Smarden Road, Headcorn, Kent TN27 9HP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs S Best against the decision of Maidstone Borough Council.
 - The application, Ref 15/503992/FULL, dated 10 May 2015, was refused by notice dated 25 January 2018.
 - The development proposed is described as "Change of use of agricultural land to a mixed use of keeping animals, and the stationing of a residential mobile home and a touring caravan, for a gypsy family. To include near gate entrance and associated laying of hard surfacing etc polytunnel, stable tractor store".
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Decisions

Notice A: Appeal A, Ref: APP/U2235/C/18/3197294

1. It is directed that the enforcement notice be corrected: by the substitution of the plan annexed to this decision for the plan attached to the enforcement notice; and by the deletion of the words in the allegation and the substitution of the words "Without planning permission, the making of a material change of use to a mixed use for the stationing of caravans for residential use and the keeping of horses; and the erection of two timber sheds, together with the installation of a cesspool and the provision of a hard standing".
2. Subject to these corrections the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the making of a material change of use to a mixed use for the stationing of caravans for residential use and the keeping of horses; and the erection of two timber sheds, together with the installation of a cesspool and the provision of a hard standing on the land shown edged black on the plan annexed to this decision and subject to the conditions set out in a schedule attached to this decision.

Appeal E, Ref: APP/U2235/W/17/3192403

3. The appeal is allowed and planning permission is granted for the material change of use of land from grazing to a mixed use for the keeping of horses and residential for a mobile home for a gypsy family at Faithfield, Love Lane, Headcorn, Kent TN27 9HJ in accordance with the terms of the application, Ref 15/503944, dated 6 May 2015, and the plans submitted with it, subject to the conditions set out in a schedule attached to this decision.

Notice B: Appeal F, Ref: APP/U2235/C/18/3197279

4. It is directed that the enforcement notice be corrected: by the substitution of the plan annexed to this decision for the plan attached to the enforcement notice; and by the deletion of the words in the allegation and the substitution of the words "Without planning permission, the making of a material change of use to a mixed use for the stationing of caravans for residential use and the keeping of horses; and the erection of an amenity building and a timber shed, together with the installation of a cesspool and the provision of a hard standing".

5. Subject to these corrections the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the making of a material change of use to a mixed use for the stationing of caravans for residential use and the keeping of horses; and the erection of an amenity building and a timber shed, together with the installation of a cesspool and the provision of a hard standing" on the land shown edged black on the plan annexed to this decision, subject to the conditions set out in a schedule attached to this decision.

Appeal J, Ref: APP/U2235/W/18/3197271

6. The appeal is allowed and planning permission is granted for the material change use of land from grazing to a mixed use for the keeping of horses and residential for a mobile home and small touring caravan for gypsy family together with the erection of a shed and the provision of a hard standing, gate and 1.8m high fencing" at Smiths View, Love Lane, Headcorn, Kent TN27 9HL in accordance with the terms of the application, Ref 15/509317, dated 26 October 2015, and the plans submitted with it, subject to the conditions set out in a schedule attached to this decision.

Notice D: Appeal N, Ref: APP/U2235/C/18/3197285

7. It is directed that the enforcement notice be corrected: by the deletion of the words in the allegation and the substitution of the words "Without planning permission, the material change of use of the land from agriculture to a mixed use for the keeping of horses, and for the stationing of caravans for residential use together with the development of a driveway, widened access, hard standing, septic tank and stable block".
8. Subject to these corrections the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the material change of use of the land from agriculture to a mixed use for the keeping of horses, and for the stationing of caravans for residential use together with the development of a driveway, hard standing, septic tank and stable block on the land shown edged black on the plan attached to the notice, subject to the conditions set out in a schedule attached to this decision.

Appeal O, Ref: APP/U2235/W/17/3192402

9. The appeal is allowed and planning permission is granted for the material change of use of land from agriculture to mixed use for the keeping of horses and for stationing of caravans for residential occupation by one family with associated development (driveway/hard standing, septic tank, utility building) and stable block with associated hard standing and manure store at The Paddocks, Love Lane, Headcorn, Kent TN27 9HL in accordance with the terms of the application, Ref 15/501189/FULL, dated 6 February 2015, and the plans submitted with it, subject to the conditions set out in a schedule attached to this decision.

Appeal P, Ref: APP/U2235/W/18/3197461

10. The appeal is allowed and planning permission is granted for the material change of use of agricultural land to a mixed use of keeping animals, and the stationing of a residential mobile home and a touring caravan, for a gypsy family together with near gate entrance, laying of hard surfacing, a polytunnel and a stable/tractor store building at Rosings, Smarden Road, Headcorn, Ashford, Kent TN27 9HP in accordance with the terms of the application, Ref 15/503992, dated 10 May 2015, and the plans submitted with it, subject to the conditions set out in a schedule attached to this decision.

Notice C: Appeals K-M, Ref: APP/U2235/C/18/3197834-36

11. The enforcement notice is quashed.

Application for costs

12. At the Hearing an application for costs was made by Mr R Makepeace against Maidstone Borough Council. This application is the subject of a separate Decision.

Preliminary and Procedural Matters

13. The Council's second letter notifying third parties about the appeals, which sets out the date, time and venue for the Hearing, was not sent until the 21 June 2019 when it should have been sent, at the latest, by the 11 June 2019. The Council apologised for their error. Although no responses had been received in respect of the first appeal notification letter, which invited any responses and was sent in December 2018, the Hearing was adjourned after opening, and subsequently later in the day. This was to allow the Council time to contact the four third parties who had responded to the notifications about the planning applications made in 2015.
14. Headcorn Parish Council, one of the four third parties, confirmed that they had received the second notification letter by email on the 21 June 2019 and the other third parties confirmed they had received theirs by post on the 22 June 2019. Even if they had received the full two weeks' notice period, they all confirmed that it was not their intention to attend the Hearing. I was therefore satisfied that there was no injustice caused by proceeding with the event and the representations made in 2015 are taken into account in this decision. Subsequently, however, the Parish Council Clerk and the Vice Chair of the Parish Council attended the second day of the Hearing.
15. The National Planning Policy Framework (the Framework) current at the time of the Council's decisions in respect of all of these appeals was that of 2012. By the time of the Hearing this has been revised as the 2019 publication.
16. All of the appeals relate to five sites which are in close proximity to each other. Four are accessed from Love Lane, of which three sites are adjacent to each other; the fifth site is to the south of the sites on Love Lane and is accessed from Smarden Road. Many of the issues arising for all of the sites are the same and the appellants have submitted similar arguments except with regard to their personal circumstances. In view of the commonality in issues, the appeals were conjoined for consideration at one Hearing. For the same reason

I have dealt with the appeals in one decision letter and addressed common issues together. Each appeal though, has been considered on its individual merits and separate conclusions reached, having also taken into account the effect of planning permission being granted retrospectively, in part, for the various developments at all of the sites.

17. The agreed Statement of Common Ground sets out that the Council accepts all the appellants meet the definition of gypsies and travellers, as defined in the Planning policy for traveller sites (PPTS).

The Notices

18. The addresses provided by the Council to describe the sites, together with the accompanying plans for three of the sites, were not sufficient to comply with Rule 4(c) of the Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002. This states that a notice issued under section 172 of the Act shall specify the precise boundaries of the land to which the notice relates, whether by reference to a plan or otherwise.
19. It was therefore agreed that the first site at the western end of Love Lane should be referred to as Faithfield, as this is the name given to the site by the appellant, who showed the Hearing a copy of a Land Registry plan that identified the extent of his land ownership. This plan identified a smaller parcel of land than had been shown on the plan accompanying the notice, which enveloped two neighbouring sites. The parties were agreeable to a new boundary to define the extent of the breach of planning control at Faithfield and I have therefore proceeded on the basis of the amended plan.
20. On the eastern side of Faithfield lies Smiths View, and again a plan was shown by the appellant which identified the extent of his ownership, which was also a smaller parcel of land than had been marked by the Council on the plan accompanying the notice. The parties were agreeable to a new boundary to define the extent of the breach of planning control at Smiths View and I have therefore proceeded on the basis of the amended plan.
21. On the eastern side of Smiths View lies a site known as Potters Nursery. The plan accompanying this notice included a similar sized plot of land known as Touchwood, which lies to the east of the Potters Nursery parcel. This extensive area of land though is not owned by the appellant and it was not clear whether the owners of that site had been served with a copy of the notice. It was therefore necessary for the parties to agree on a new plan that specified the precise boundaries of the land to which the notice relates and which also showed the extent of new hard standing area created at Potters Nursery. This was necessary to distinguish it from the extent of the authorised hard standing area. Following this agreement, the appellant withdrew her ground (e) appeal and I have therefore proceeded on the basis of the amended plan.
22. Finally, the parcel of land sited on the eastern boundary of Touchwood is known as The Paddocks, which is a more precise way of identifying the land than just "Land on south side of Love Lane" as most of the sites are on land to the south of Love Lane. The plan accompanying this notice correctly identified the precise boundaries of the land to which the notice relates.

23. I turn now to consider whether the wording of each of the allegations reflects the development that has taken place at each site at the time when the notices were issued and whether the framing of each allegation is correct. In respect of Faithfield, I also consider the implication of omitting a date for when the notice is to take effect.

Faithfield

24. The Council have omitted to refer to the making of a material change of use to a *mixed* (my emphasis) use for the stationing of caravans for residential use *and* the keeping of horses. In addition, the "utility shed" referred to in the notice is actually two timber sheds, one either side of the access into the site. The reference to "associated works" is imprecise and should be corrected to "together with the installation of a cesspool and the provision of a hard standing". The parties were agreeable to the new wording, even though the allegation has been extended and I consider that there would be no injustice if I were to proceed on the basis of the corrected allegation which is "Without planning permission, the making of a material change of use to a mixed use for the stationing of caravans for residential use and the keeping of horses; and the erection of two timber sheds, together with the installation of a cesspool and the provision of a hard standing".
25. This is on the basis that the notice is valid in other respects. It was brought to my attention that instead of stating the date when the notice is to take effect, the notice states "This notice takes effect 35 days from the date of this notice unless an appeal is made against it beforehand". Section 173(8) of the Act requires that an actual calendar date is specified. To do so otherwise is insufficiently precise and could prejudice the submission of a valid appeal. That is not the case here and additional time was given on top of the minimum period of 28 days between the date on which everyone with an interest in the land must have been served with a copy of the notice and the date on which the notice comes into force. Nevertheless, this is an indication of poor drafting.

Smiths View

26. The Council have omitted to refer to the making of a material change of use to a *mixed* use for the stationing of caravans for residential use *and* the keeping of horses. In addition, the notice omits reference to a timber shed. The reference to "associated works" is also imprecise and should be corrected to "together with the installation of a cesspool and the provision of a hard standing". The parties were agreeable to the new wording, even though the allegation has been extended and I consider that there would be no injustice if I were to proceed on the basis of the corrected allegation which is "Without planning permission, the making of a material change of use to a mixed use for the stationing of caravans for residential use and the keeping of horses; and the erection of an amenity building and a timber shed, together with the installation of a cesspool and the provision of a hard standing".

Potters Nursery

27. The Council have omitted to refer to the making of a material change of use to a *mixed* use and to list all the component elements. At the time the notice was

issued the appellant states¹ the mix of uses comprised the stationing of caravans for residential use, the keeping of horses, storage of scrap metal and logs as well as use as a plant nursery. In addition, the potting shed was being used as a self-contained residential unit and a day room.

28. Unlike Faithfield and Smiths View, there were three households living on the site at the time the notice was issued, namely the appellant and her partner, a married son and his family² and another son. The appellant lived entirely in the potting shed as seen by her agent. Planning permission was granted for this building in 2011 (Reference MA/11/1412) when the previous owner of the site sought permission for the erection of the potting shed and three polytunnels, an access track and a hard standing. The internal layout plan of the potting shed showed that it was to be used for an office, kitchen, potting up room, cold store, toilet/shower and tractor store. The appellant uses all of it as a self-contained dwelling and the other members of the family, who live in the mobile home and tourer on site, also use it as a day room. The mix of uses should therefore have referred to this dual use but instead the allegation describes this breach as "conversion of agricultural building to part residential".
29. These words are imprecise as it is not clear what is meant by "conversion", "part" and "residential". The appellant was unsure whether "conversion" meant a material change of use and if so to what; whether "part" related to the use of part of the building and if so which part; and finally, what was meant by "residential", whether this was a reference to a day room use or a self-contained use.
30. In terms of operational development, the notice omits to refer to timber stables on the land. The appellant also enlarged the authorised area of hard standing but this is identified as "all hard standing other than that approved under planning application MA/12/1568" in the allegation. The plan accompanying the notice did not identify the extent of new hard standing and planning application, reference MA/12/1568, relates to a non-material amendment application concerning the Potting Shed elevations, whereas the correct reference should have been MA/11/1412.
31. It is open to me to correct the allegation to put this notice in order but this can only be done provided there is no injustice to either party. In the first instance, corrections could be made to identify the mixture of uses taking place on the land, as opposed to within a building. The appellant accepts this even though that extends the scope of the allegation. An annotated plan could also illustrate the new hard standing area with a reference to it being made in the allegation. This would enable the details of the breach to be apparent from the four corners of the document³ and avoid the need to refer to a planning permission.
32. With regard to the potting shed, the Council framed this part of the allegation in this way as the enforcement officer's site visit report recorded that the appellant said the potting shed was going to be used as a utility room.

¹ Her agent visited the site on Monday 22 January 2018 to discuss the section 78 appeals and recorded in her notes what she saw that day on all the sites.

² Partner and three children

³ Miller-Mead v MHLG [1963] 2 WLR 225

Following his visit, the appellant then submitted a planning application⁴ in 2014 (Ref 14/505637). In a subsequent letter responding to the Council's request for more information, the Council state that the appellant described the proposed use of the potting shed as though it was already happening, "using it to make tea...we spend all day in the potting shed and sleep in our caravans". The Council confirmed that the allegation was framed based on the description in the application, namely that part of the building was being used as a day room. However, if the whole of the letter is read, it is apparent that the appellant is describing a proposal as on pages one and two she uses the future conditional tense to describe the use.

33. The appellant also said when they purchased the site in 2014 that the potting shed had no internal fittings; the kitchen and bathroom were added later and her plans for the building changed after the first winter on the site. Her application was also made without any professional planning input. To change the allegation to use of the potting shed tractor store area as a day room would be incorrect. This was not how the building was being used before the notice was issued. Left unchanged the appellant would be denied the opportunity to make her case in the deemed planning application for the actual use that was taking place. Furthermore, the appellant's case at appeal is not based on a day room use and, as such, there would be injustice.
34. The Council take issue with a correction to a self-contained dwelling and day room use as they do not believe that use was occurring when the notice was issued. However, the Council stated it appeared that there were no other site visits made after the first enforcement officer visit and before the notice was issued. Furthermore, their case at appeal has not been made in respect of a self-contained dwelling use, which would be unfair if the appeal were allowed.
35. For these reasons it is considered that to correct the potting shed allegation would cause injustice to both parties. If the matter of the potting shed is deleted from the notice, then both parties consider there would also be injustice as the matter is not being dealt with.
36. Overall, I consider that the notice as currently drafted has led to confusion by the appellant due to a lack of clarity and precision in a number of areas. Whilst some matters could be corrected, as discussed, the use of the potting shed cannot be corrected or even omitted from the notice without causing injustice. As it is not open to me to correct the notice in accordance with my powers under section 176(1)(a) of the Act, the notice is thus invalid for the reasons stated and will be quashed. In these circumstances the appeals⁵ under grounds (a) and (g), as set out in section 174(2) of the Act, do not fall to be considered.

The Paddocks

37. In respect of this site the Council have included operational development that was not there, and has still not been built, at the time the notice was issued.

⁴ This was an application described by the appellant as being for "The change of use of agricultural land to a mixed use of agricultural (plants/polytunnels) and the stationing of one mobile home and one touring caravan for a gypsy family plus change of use of the potting shed to part day room (staff room) in the store room only, originally for tractor."

⁵ Appeals K-M, Refs: APP/U2235/C/18/3197834-36

This development comprises a utility building and manure store. It would appear that this error arose as the appellant proposed these developments as part of his planning application, the subject of the section 78 appeal. The notice also includes the word “associated” which is imprecise.

38. The parties were agreeable to this operational development being deleted from the notice and I consider that there would be no injustice if I were to proceed on the basis of the corrected allegation which is “Without planning permission, the material change of use of the land from agriculture to a mixed use for the keeping of horses, and for the stationing of caravans for residential use together with the development of a driveway, widened access, hard standing, septic tank and stable block”.

The applications

39. There were also discrepancies in the descriptions of development in the various planning applications. At Faithfield, the description of development did not include the making of a material change of use to a mixed use so as to include the keeping of horses but the application was determined as though it were for a mixed use, as shown in the officer’s report. The parties were therefore agreeable to including this use in the description of the development
40. At Smiths View, details of a shed, gate and fencing were included with the application and were considered by the Council. These proposals were added to an amended description of the development as set out within the decision notice. The parties were agreeable to my consideration of the amended proposal.
41. At Rosings, the appellant’s description of the development references a material change of use to a mixed use for the keeping of animals and the stationing of a mobile home and a touring caravan for residential purposes. It also includes the development of a new entrance gate, the laying of a hard surface and the erection of a polytunnel and a stable/tractor store. This full description is truncated on the Council’s decision notice and ends with “etc polytunnel”. All of these matters were considered by the Council in their determination of the application, it is therefore appropriate for me to consider them as part of the appeal. However, it would be inappropriate for me to consider the appellant’s use of the former field shelter on site as a day room as this was not included in the application, not considered by the Council and there are no detailed drawings of it before me.

The ground (a) appeals, the deemed planning applications and the section 78 appeals

Main Issue

42. The main issue is whether the developments represent acceptable forms of development having regard to the following matters:
- The objectives of the development plan in respect of gypsy and traveller accommodation;

- The character and appearance of the area, having regard to the location of the developments, which are within an identified rural landscape (Landscape of local value - the Low Weald);
- The cumulative impact of the developments;
- Flooding;
- The weight that should be attached to the unauthorised nature of the developments; and
- Whether any harm arising from the above matters is outweighed by any other material considerations.

Reasons

Appropriateness of developments - site locations

43. The appeal sites are located to the east of Headcorn, about 1.5 miles from the centre of the village. The main road that passes through the village turns south across the railway line and Smarden Road, a minor rural road that links the smaller village of Smarden to Headcorn, is accessed from the main road at this point. It broadly follows the east-west alignment of the railway line and shortly after it leaves the village, Love Lane, a single-track road, branches off it to the north. Love Lane loops around to serve a number of dwellings and a couple of farms with outbuildings before re-joining Smarden Road further east. Four of the appeal sites are on the south side of Love Lane and the site on Smarden Road abuts three of them.
44. There are several permanent dwellings located sporadically along Smarden Road, some are situated in large plots and a few also have businesses operating from them. There are also four lawful gypsy and traveller sites along the length of Love Lane which are: Little Love Stables (one pitch), Abbey Wood Stud Farm (one pitch), Hieland Glen Farm (two pitches) and Ten Acre Farm (one pitch). The parties accept that all the appeal sites lie in the countryside, outside the built-up areas of the nearest villages.
45. Policy SS 1 from the Maidstone Borough Local Plan (LP)⁶ sets out the Council settlement strategy and directs growth to the main urban centre of Maidstone followed by rural service centres such as Headcorn and smaller villages. Policy SP 17 from the LP sets out the approach to development in the countryside. This will not be permitted unless it accords with other policies in the plan and will not result in harm to the character and appearance of the area. Any development permitted in the countryside will also retain the separation of individual settlements. Policy DM 15 from the LP deals with gypsy and traveller development and sets out various criteria such as the requirement that development is accessible to local services and does not result in significant harm to the local landscape.
46. National policy is contained in the PPTS which states that applications should be assessed and determined in accordance with the presumption in favour of sustainable development. In addition, Councils should strictly limit new

⁶ Adopted 25 October 2017

traveller site development in the open countryside that is away from existing settlements.

47. The appellants submit that there is significant unmet need for pitches in the borough as shown by the considerable number of outstanding appeals that remain to be determined in relation to a number of sites in the borough. Maidstone has a large gypsy and traveller community and often sites are located in the rural area. Much of the countryside in the borough is valued and as such is protected in the LP. If land at risk from flooding is removed from consideration, there is very little land left which would be suitable for the gypsy and traveller community.
48. I find the distance of Love Lane and the stretch of Smarden Road running parallel to it from Headcorn are not so far from the village such that they could be regarded as being away from existing settlements, especially given the number of dwellings along these roads. Love Lane could almost be considered as a hamlet. Headcorn provides school, health and shopping facilities and although there does not appear to be a bus service along Smarden Road, the requirement of Policy DM 15 is that it is "preferable" if these services are accessible by public transport, on foot or by bicycle.
49. The Council make no detailed submissions on this issue other than stating that all the developments conflict with Policies SP 17 and DM 15. In addition, none of the sites are allocated as gypsy and traveller sites and the qualifying criteria are also not satisfied in respect of any of the sites. The LP envisages establishing a sustainable pattern of development but the fact that the occupants of the appeal sites would be likely to rely on cars for most journeys will be similar to nearby occupants in the settled community. As the sites are within a reasonable distance of Headcorn, I find no conflict with the Council's policies and approach to the siting of gypsy and traveller developments, which are, in most cases, within the rural area. I therefore give this finding substantial weight

Character and appearance

50. The rural area in the vicinity of Love Lane and Smarden Road is part of the designated Low Weald Landscape of Local Value (LWLLV) and Policy SP 17 seeks to conserve and enhance the distinctive character of this area. In addition, Policy DM 30 seeks to ensure that development in the countryside is of high quality design. The LWLLV comprises land that lies either side of the A274 south of the Greensand Ridge and extends as far south as Headcorn and Staplehurst. Prior to the adoption of the LP, the Council carried out a Landscape Capacity Study in 2015 for the whole borough to describe the landscape and assess its sensitivity and tolerance to change.
51. Within this document, the appeal sites lie in a character area known as the Headcorn Pasturelands, which is described by the Council as being a low-lying landscape with a high sensitivity to change. In this area there is sparse development with scattered farms and hamlets, pastures are enclosed, views are intimate, and there is a dominance of mature oaks, mature hedgerows with ditches and scattered ponds.

52. The pasturelands area however, covers a large proportion of countryside and I find that the character and appearance of the land directly to the north of the appeal sites and south of Love Lane, bounded by Smarden Road, has changed. Parts of the Council's description resonates with this smaller character area, in that the land is generally flat, fields are enclosed, views are intimate, and there are mature oaks, hedgerows, ditches and ponds. However, I also find that the character and appearance of this particular corner of the pasturelands is more developed with housing and outbuildings. There are also a number of commercial uses, including a caravan club site at the eastern end of Love Lane, near the junction with Smarden Road.
53. In particular, the fields between the eastern end of Love Lane and Smarden Road are compartmentalised into smaller parcels and planning permission has been given for various developments. On Potters Nursery planning permission has been given for the potting shed although the polytunnels have not been built; and at Touchwood Farm and Eden Park Farm planning permission has been given for large agricultural buildings. In addition, at Oak Tree Farm and Eden Park Farm prior notifications for the change of use of agricultural buildings into dwellings have been approved. Towards the western end of Love Lane at The Griffins, planning permission has been given to extend the residential curtilage into the adjacent field by 20m and at Luckhurst Farm permission has been given to change the use of a barn into a dwelling. At Little Luckhurst Farm planning permission has been given to change the use of pig sheds to commercial stables.
54. It is therefore concluded that some buildings and residential uses of the land have become an established part of the character and appearance of the area. I will now consider the effect of the developments at each of the appeal sites on this identified character and appearance but I will consider the cumulative impact of all the developments as a separate issue.

Faithfield

55. The appeal site is approximately 48m x 48m with a mature hedge comprising oak, willow and other trees running along the northern boundary with Love Lane. On the inside of the hedge and along the other boundaries of the site there is solid fencing to a height of about 2m. Part of this is glimpsed in passing but it is mainly screened by the hedge, which is a similar situation to the fence on the inside of the hedge marking the large garden at Little Luckhurst Farm House.
56. A vehicular access, surfaced in a permeable material, has been created in the north east corner of the site, which is marked by a pair of timber five bar field gates set behind the hedge line. This leads into a gravel hard standing about 20m by 25m in which there are two small timber sheds, one either side of the entrance gates. The smaller one is used to house a washing machine and the larger one contains animal feed and a cart. Only the flank wall of the larger shed is glimpsed in passing, the other, being very small and tucked right into the north east corner, is not visible from the road. Along the eastern boundary there is a mobile home as well as a touring caravan. The remaining part of the site is used to graze horses and there is a gate in the southern boundary fencing that leads into an area of paddocks owned by a member of the extended family.

57. Faithfield occupies about one sixth of what was a much larger field that was acquired by a member of the extended family and subsequently subdivided into Faithfield and Smiths View with two thirds of the former large field being used as paddocks. These are accessed from a field gate on Love Lane in the north west corner of the former large field. This opens onto a narrow track between Faithfield and The Griffins, a property to the west of the former large field, which leads to the paddocks.
58. The subdivision of the former large field is largely unseen, except for the creation of the vehicular accesses into each site, as there are no public footpaths in the area which provide a view of the field. The field also does not extend as far as Smarden Road whereas some fields do at the far eastern end of Love Lane. Views from The Griffins across the former large field are screened by a mature hedge running the length of the shared boundary.
59. The appellant submits that the hard standing area has been kept as small as possible but I saw that the use and layout of the site are visible from Love Lane. However, such views are very limited and only glimpsed in passing due to the restricted width of the access point and the mature hedging along Love Lane.
60. The Council are concerned that the use is conspicuous and intrusive in open countryside especially due to the extent of hard standing and the presence of domestic paraphernalia. The impact of the use is also not limited to the daytime as the site is lit at night. I consider there are no clear views across the site from Love Lane other than from the access point and I do not find the landscape to be open countryside as described by the Council. The access is set well back from the road as there is a substantial ditch and grass verge between the edge of the road and the hedge.
61. Although the hedge comprises deciduous trees, it is well established and dense so even when not in leaf, it is my view that it would be an effective screen. However, the operation of a residential use where none existed previously does result in a modest impact on the character and appearance of the area. Policy DM 15 sets out the level of harm should not be significant, having regard to existing landscape features and the character of the area.
62. I find that the harm would be limited but not significant due to the mature hedge along Love Lane and the presence of hedging with mature trees in between the fields. The character of the site does not differ markedly from others in the area as there are farmsteads and detached houses with driveways hard standings and outbuildings in the area.
63. I also consider that the use and layout of the site generally preserve the overall appearance of the Love Lane area. This is because many of the fields had already been divided into paddocks before the use began. The timber sheds are very small in area with a traditional dual pitched roof and together with the caravans do not appear out of place in this rural setting, where some fields contain field shelters and caravans. In addition, the level of illumination from use by one family would be limited and the number and type of external lights could be controlled by condition.

64. Overall, I conclude on this issue that the development of Faithfield does not have an adverse effect on the character and appearance of the area, subject to the consideration of cumulative impact. Accordingly, this aspect of the development does not conflict with either Policy CS 17, DM 15 or DM 30 of the LP. I therefore give this finding substantial weight.

Smiths View

65. This appeal site is also approximately 48m by 48m. However, the hedge running along the northern boundary at this point on Love Lane is not so thick with the native shrubs between the oak trees missing in the north east corner of the site. The appellant has erected a solid fence behind the hedge line and brick piers and railway sleepers mark the five metre wide entrance into the site near the north east corner and tall metal gates close the opening. Within the site there is solid fencing along the eastern and southern boundaries and a low fence separates the hard standing area from the paddock, which occupies most of the site. There is a gate in the southern boundary fencing to allow access to more paddocks owned by a member of the extended family.
66. At the time when the notice was issued there was a mobile home on the eastern boundary but this has now been replaced with a touring caravan. There is also a utility building with a rendered finish, which the appellant has erected on the southern boundary, directly opposite the access point. This is approximately 12m by 6m with the short side facing the access. It is used for sitting, cooking, ablutions and as a play area for the children. The appellant has also placed a timber shed approximately 5m by 4m in the south east corner of the site to house a washing machine.
67. Compared to Faithfield, the yard area of Smiths View is larger, extending to the full depth of the site, although the width is similar to Faithfield. The use and layout of the site are visible from Love Lane but the views are limited and only glimpsed in passing due to the restricted width of the access point and mature hedging along most of the northern boundary. The appellant initially proposed to erect a timber utility room, 4m by 12m, on the site of the small timber shed but after the submission of the planning application he changed his mind and constructed the more permanent utility building in the south west corner of the yard instead.
68. The elaborate metal gates are a temporary fixture and the appellant accepts that their design is out of place in this rural area. He proposes to erect timber gates in their place. Should I be minded to allow the appeal, a condition could be imposed requiring the installation of the timber gates as shown in the application, in lieu of the metal gates. This would be reasonable and necessary in the interest of the appearance of the site.
69. The Council are concerned that the access has resulted in the loss of hedgerow and the use of the site is intrusive in this rural area. The impact of the use is not limited to the daytime as the site is lit at night, which further detracts from the character appearance of the rural area.
70. It is considered that there are no clear views across the site from Love Lane other than from the access point. This is set well back from the road as there is a substantial ditch between the edge of the road and the hedge. The hedge

to the west of the access is dense with mature trees and shrubs, which screen the fence inside the site. However, the hedge to the east of the access comprises mainly trees, consequently the fence is more visible. The Council submit that the appellant has removed a portion of hedge in order to create the access point. However, there are no 'before' and 'after' photographs of this area to support this submission and given that the hedge becomes thinner further east of the site, I consider that it is likely the appellant found the widest gap between the trees to position his access.

71. Should I be minded to allow the appeal, then a condition could be imposed to require the submission of a landscaping scheme to restock the hedge with native shrubs. In time, this would screen the fencing and help simulate the use into the landscape. However, the operation of a residential use where none existed previously does result in a modest impact on the character and appearance of the area. Policy DM 15 sets out the level of harm should not be significant, having regard to existing landscape features and the character of the area.
72. I find that the harm is limited but not significant due to the mature hedge along most of the northern boundary and the presence of hedging and mature trees in between the fields. The character of the site does not differ markedly from others in the area as there are farmsteads and detached houses with driveways, hard standings and outbuildings.
73. I also consider that the use of layout of the site preserves the overall appearance of the Love Lane area. This is because many of the fields had already been subdivided into paddocks before the use began. The utility room and timber shed are relatively small in area with traditional dual pitch roofs and, together with the caravans do not appear out of place in this rural setting, where some fields already contain caravans and field shelters. In addition, the level of illumination from use by one family would be limited and the number and type of external lights could be controlled by condition.
74. Overall, I conclude on this issue that the development of Smiths View does not have an adverse effect on the character and appearance of the area, subject to the consideration of cumulative impact. Accordingly, this aspect of the development does not conflict with either Policy CS 17, DM 15 or DM 30 of the LP. I therefore give this finding substantial weight.

The Paddocks

75. The appeal site comprises a larger parcel of land, almost double the depth of the former large field in which Faithfield and Smiths View are sited. Most of it is laid out as paddocks. The hard standing area is situated in the north east corner of the site and is approximately 50m in width and 30m in depth. The existing access into the site has been widened and the metal farm gate has been set back from the road well into the site. The hedge on the site frontage comprises trees and shrubs but the appellant has also added planting around the site entrance and inside the site along the northern boundary. On entering the site, the hard standing area is divided into a residential use on the eastern side separated by a post and rail fence from the stables area on the western side. The appellant has also added shrub planting against the post and rail fencing. The northern and eastern boundaries comprise solid fencing about 2m

- high and against the eastern boundary there is some landscaping but to the south and west there is post and rail fencing.
76. There is currently a block of dog kennels within the residential area, which is the proposed siting of the 6.5m by 3.4m utility room. At the time when the notice was issued, the 'L' shaped stable block, comprising four loose boxes and a tack room, had been built and there was a mobile home and touring caravan on site.
77. I consider the use and layout of the site are very well screened from Love Lane. The roof of the stable block is barely discernible through the hedge, views of the mobile home, which are only glimpsed in passing anyway, are further broken up by the additional planting against the post and rail fencing within the site and the touring caravan is unseen from outside the site. I consider the proposed utility room, which is modest in size and about 3.5m in height would also be very effectively screened. The appellant proposes to construct a manure store and underground slurry tank. These would be sited in the south west corner of the hard standing and, as such, would not be readily visible when passing the site.
78. The Council are concerned that the appellant has removed a section of hedgerow in order to widen the access, which makes it visually intrusive. The Council are also of the view that the development on the site is very visible from the roadside, especially in the winter months when the deciduous trees lose their leaves. They also refer to Policy DM 41 of the LP which deals with the development of stables.
79. It is considered, as with the other sites, that there are no clear views across the hard standing area of the site from Love Lane. Further east along Love Lane, it is possible though to see across to the paddocks area but this is no different from seeing across the grazing area of Touchwood Farm, where sheep and alpacas are kept. The appellant states he has made the access wider so he can enter and exit the site safely but he has replaced the hedge with a mixture of native and non-native shrubs. Whilst the mixture is not ideal it is now well established and it means that there are no gaps in the hedge and the entrance into the site is well screened all year round.
80. Furthermore, the hedge on the northern boundary of the site is quite dense, which means when the trees lose their leaves, there is still a fairly good screen from the number of branches. The appellant has also bolstered the screening effect of the hedge by planting two belts of shrubs on the inside of his site adjacent to the hedge. In any event, though, the PPTS, at paragraph 26, implies that sites should not be completely hidden and therefore that some degree of visibility is to be expected.
81. However, the operation of a residential use where none existed previously does result in a modest impact on the character and appearance of the area. Policy DM 15 sets out the level of harm should not be significant, having regard to existing landscape features and the character of the area.
82. I find that the harm is limited but not significant due to the screening provided by the hedge on the northern boundary and the presence of hedging and mature trees in between the fields. There are also mature trees within the

appellant's site around a large pond sited in one of the paddocks. The character of the site does not differ markedly from others in the area, where there are farmsteads and detached houses with driveways, hard standings and outbuildings.

83. I also consider that the use and layout of the site preserves the overall appearance of the Love Lane area. This is because many of the fields had already been divided into paddocks before the use began. The stables have a traditional appearance and are not excessive in size in relation to the hard standing area and the proposed utility room would have a clay tile roof and be clad in timber. Their design would not look out of place in this rural area and neither would the appearance of the caravans as these are already found in the area. The Council have not referred to Policy DM 41 in the notice; it therefore cannot be relied upon to support their case, now in respect of the stables as to do so would cause injustice.
84. Overall, I conclude on this issue that the development of The Paddocks does not have an adverse effect on the character and appearance of the area, subject to the consideration of cumulative impact. Accordingly, this aspect of the development does not conflict with either Policy CS 17, DM 15 or DM 30 of the LP. I therefore give this finding substantial weight.

Rosings

85. This appeal site comprises a large field accessed from Smarden Road but which abuts the southern boundary of the former large field currently subdivided into paddocks, Faithfield and Smiths View. The access is in the south west corner of the field and a long drive has been laid from it adjacent to the hedge on the western boundary. This leads to the new hard standing area in the north west corner of the site, where there is now a mobile home, space to park cars and a touring caravan and to turn. There is also a former field shelter that has been converted into a day room but this does not form part of this application. A portion of the field adjacent to the northern boundary has been kept as a garden but the remainder of the field is subdivided into a hay meadow and grazing for goats and horses. It is separated from the drive by a post and rail fence.
86. Unlike the other sites, the only solid fencing that has been erected to enclose the hard standing area is limited to the side and rear of the mobile home. The appellant has relied largely on the natural screening provided by hedges on the field boundaries and the distance from the road to screen the site. The northern boundary comprises a mature hawthorn hedge which has been supplemented with indigenous saplings. The eastern boundary hedge has some gaps which the appellant is infilling but the western boundary hedge is very dense with a number of mature trees. The Smarden Road hedge also has mature trees but the density of shrubs is less, nevertheless it is a reasonably effective screen in summer.
87. Currently, on accessing the site, a second pitch is first in view. This has been created abutting the Smarden Road boundary for a relative of the appellant. This does not form part of the application and is being dealt with by the Council outside of these appeals. I have therefore not had regard to it.

88. I consider the use and layout of Rosings is fairly well screened from Smarden Road, which has a straight alignment at this point and traffic speeds are therefore greater than along the single track Love Lane. As there are no pavements along the road, it is unlikely the pedestrians would pass the site but even if they did, the entrance to the site is fairly discreet as it is set well back from the road and enclosed by the hedge. Motorists would really only be able to glimpse the site in winter. Although the appellant has laid a long drive to the hard standing, it is positioned adjacent to the hedge, which minimises its effect on the character and appearance of the area.
89. The appellant also proposes to erect a polytunnel and a stable/tractor store, though no details are provided with the application, other than the location of the polytunnel would be in the north east corner of the site. The Council make no specific submissions on these aspects of the development but should I be minded to allow the appeal, conditions would be necessary and reasonable requiring details to be provided and approved, in the interest of the appearance of the development. The details of the timber five bar entrance gates are shown in a photograph however, at the site visit I noted that these have been removed and replaced with tall solid gates. The Council dispute that the access into the site was existing but the appellant submits the Council refused an application to improve the existing access and erect a barn in 2011.
90. As with the previous sites, the Council are also concerned that the use of the land has resulted in a harsh prominent development with urbanising fencing and caravans visible from the road.
91. It is considered that it is very difficult to discern the site from the road. Even on entering the site, the hard standing area is not in full view as the drive curves around to meet it and the field shelter (now day room) shields most of it, there being just a partial view of the mobile home from the drive. Fencing within the site is typical of a rural area except for the small section of solid fencing to the rear and side the mobile home, which is tucked hard up against the hedge and not visible unless walking around the mobile home. Although the drive and improved access have resulted in a loss of soft ground, overall I find little support for the Council's views.
92. On the south side of Smarden Road, opposite and east of the site, there are three detached houses with outbuildings and commercial kennels, which are all more visible from the road than Rosings. West of the site along Smarden Road, it is also possible to see the stables at The Griffins and the roof of that dwelling. However, the most prominent building visible from within the fields between this section of Love Lane and Smarden Road is the barn at Touchwood Farm, due to its height and length.
93. The operation of a residential use at Rosings where none existed previously does result in a modest impact on the character and appearance of the area. However, Policy DM 15 sets out the level of harm should not be significant, having regard to existing landscape features and character of the area. I find that the harm is limited but not significant due to the screening provided by surrounding hedging. Whilst there are intermittent views of the site directly from the east from across the paddocks at Potters Nursery, the character of the site does not differ markedly from others in the area where there are

farmsteads and detached houses with driveways, hard standings and outbuildings.

94. I also consider that the use of layout of the site preserves the overall appearance of the area between Smarden Road and the Love Lane area. This is because many of the fields had already been subdivided into paddocks before the use began, as evidenced by the 2011 planning application and the Potters Nursery and Touchwood Farm developments. The appellant's development of the site is restrained and the mobile home and touring caravan do not appear out of place in this rural setting where some fields already contain caravans. In principle, the proposed polytunnel and stable/tractor store would also be acceptable in a rural area subject to a condition to control their size, siting and design.
95. Overall, I conclude on this issue that the development of Rosings does not have an adverse effect on the character and appearance of the area subject to the consideration of cumulative impact. Accordingly, this aspect of the development does not conflict with either Policy CS 17, DM 15 or DM 30 of the LP. I therefore give this finding substantial weight.

Cumulative impact of the developments

96. There are already four lawful sites in the vicinity of Love Lane. Allowing all or some of the four appeals would result in,, at the most eight sites. However, the scale of this development in relation to the size of Headcorn, an identified rural service centre, would not dominate the settled community or even the Love Lane community, where the settled community would still outnumber the travelling community.
97. Policy DM 15 requires the landscape impact of new gypsy and traveller developments, in combination with existing lawful sites, to be considered as part of the overall assessment to ensure that development does not result in significant harm to the landscape and rural character of the area.
98. Existing lawful sites in the area are evenly spaced either along Love Lane or north of Love Lane at the end of a long private drive. I have already established that the development of each of the appeal sites has not resulted in significant harm to the character and appearance of the area. I consider that to allow all four sites would also not result in significant harm to the landscape and rural character of the area. This is because the four appeal sites would preserve the even spacing of gypsy and traveller sites in the area. Although two of the sites are adjacent to each other, namely Faithfield and Smiths View, there is a paddock separating the hard standing areas and when travelling along Love Lane, it is not immediately apparent that they are adjacent to each other as the access points are not within sight of each other. These sites are also towards the middle of Love Lane whereas Little Love Stables and Abbey Wood Stud Farm are at the western end of the lane. In addition, Rosings is not visible from Love Lane and is separated from Faithfield and Smiths View by paddocks. Finally, The Paddocks is situated on the south side of Love Lane midway between Ten Acre Farm and Smiths View, just past Little Luckhurst Farmstead to the north.

99. It is considered that to allow the development of all the appeal sites would not have an effect greater than the sum of their individual effects on this area. This is due to the spread and separation of the sites and the existing level of screening from mature hedgerows and trees in the area. I therefore give this finding substantial weight.

Flooding

100. Concerns have been expressed by third parties that Rosings and The Paddocks are prone to flooding as the area is a flood meadow which supports a variety of wildlife. As such, the additional hard standings only exacerbate this and septic tanks or cesspits with soakaways are not suitable. However, the Council states that all the sites are in Flood Zone 1, therefore the occupants and the surrounding area are not at risk from flooding. The appellants state that all the sites have surface water drainage that connects to the drains in the roads which feed into the River Beult. Should I be minded to allow the appeals, a condition could be imposed requiring the submission of foul and surface water drainage details.

Intentional unauthorised development

101. It is now government planning policy that intentional unauthorised development is a material consideration that should be weighed in the determination of planning applications and appeals. The Written Ministerial Statement (WMS) announcing this policy stated that it applied to all new planning applications and appeals received since 31 August 2015.
102. In answer to a written question to the Minister for Housing, Communities and Local Government on the 19 October 2018, it was confirmed that following the issue of the updated Framework, the WMS is still a potential material consideration. All the developments were clearly carried out in the knowledge that planning permission was required. The applications for Faithfield, The Paddocks and Rosings however, were submitted before August 2015. Essentially, there was no attempt to hide the developments or evade the need for planning permission and applications were submitted for all of the sites. In each case it was intentional unauthorised development to which I attach some weight against the granting of planning permission.

Other material considerations

103. Concerns were expressed by third parties that the developments along Love Lane result in harm to highway safety, due to the increase in traffic along a single track road. The County Highway Authority state that each access has good sight lines and there is turning space within each site so that all vehicles can leave in forward gear. As each development only results in modest traffic generation there is no discernible harm to highway safety.
104. The parties have submitted a number of recent appeal decisions to support their respective positions. Rosewood Farm can be distinguished from the appeals before me as it lies within an Area of Outstanding Natural Beauty, which has a different appearance from the Love Lane area and it seems the site is more readily visible from the public domain. Ten Acre Farm supports the appellants' cases as the Inspector found the character and appearance of the area to be not wholly in line with the stated attributes of the wider Headcorn

Pasturelands area. Eden Park Farm supports the Council's case. Whilst that Inspector reached a different conclusion on the effect of the development on the character and appearance of the area, the circumstances in relation to this site are different from those before me in that there was already a large barn on that site and prior approval has been granted to use it as a dwelling. However, none of these decisions set a precedent as I have reached my own conclusions on the current appeals based on the evidence before me.

Planning balance

105. I have found no conflict with the development plan read as a whole. The unauthorised nature of the developments is a material consideration that weighs against them, but it is not sufficient in my view to displace the presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with the development plan.

106. Within their submissions and at the Hearing the parties addressed other material considerations including the need for gypsy and traveller sites, the availability of alternative sites, personal circumstances, Human Rights and equality considerations. These are not matters that I need to address as I have concluded that all the developments accord with the development plan.

Conditions

107. I have considered the need for the conditions put forward by the appellants in the light of the advice in the Planning Practice Guidance and the discussion at the Hearing. Having regard to my findings on the development plan, I do not consider that it is necessary for temporary permissions to be granted in respect of any of the sites. It is, nonetheless, necessary to restrict the occupation of each of the sites to gypsies and travellers.

108. In the interests of the appearance of the sites it is necessary to limit the number of caravans, control lighting, prevent commercial activities on the land and the stationing/storage of vehicles over 3.5 tonnes. In this area of Love Lane, where the fields between Love Lane and Smarden Road have already been subdivided, it is reasonable that there should also be control over further subdivision by the removal of permitted development rights controlling the means of enclosure. This would be to protect the character and appearance of the area. As all the material changes of use have already occurred, it will also be necessary to impose a condition requiring the submission of a Site Development Scheme (SDS), in the interests of the appearances of the sites. The condition is drafted in such a way as to require the appellants to comply with a strict timetable. There is then no necessity to name the drawings on any of the section 78 permissions as all the developments are, in part, retrospective and the provisions for pre-commencement amendments are not appropriate.

109. The SDS condition is drafted in this particular form because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition precedent to secure the subsequent approval and implementation of outstanding detailed matters as the development has

already taken place. The condition therefore provides for the loss of the effective benefit of the grant of planning permission where the detailed matters in question are not submitted for approval during the time set by the condition, approved (either by the local planning authority or by the Secretary of State on appeal), and then implemented in accordance with an approved timetable. Should the requirements of the condition not be met in line with the strict timetable, then the planning permissions fall away.

Conclusions

110. For the reasons set out above I conclude that Appeals A, F and N on ground (a) in respect of Notices A, B and D and the section 78 appeals, Appeals E, J, O and P should all succeed. The appeals on ground (g) do not therefore need to be considered.

Overall conclusions

Notice A: Appeal A and the section 78 appeal, Appeal E

111. It is clear from the representations, and from my inspection of the site, that the description of the development in the enforcement notice is incorrect in that it does not allege a mixed use and does not identify that two timber sheds have been erected. The appellant and the local planning authority agreed at the Hearing that it was open to me to correct the allegation in the notice and also the plan. I am satisfied that no injustice will be caused by this and I will therefore correct the enforcement notice in those two respects, in order to clarify the terms of the deemed application under section 177(5) of the 1990 Act as amended.
112. For the reasons given above I conclude that the appeal should succeed on ground (a) and I will grant planning permission in accordance with the application deemed to have been made under section 177(5) of the 1990 Act as amended, which will now relate to the corrected allegation. Similarly, for the reasons given above I conclude that the section 78 appeal should be allowed.

Notice B: Appeal F and the section 78 appeal, Appeal J

113. It is clear from the representations, and from my inspection of the site, that the description of the development in the enforcement notice is incorrect in that it does not include that the proposal is for a mixed use for the keeping of horses and the stationing of caravans for a residential use. The appellant and the local planning authority agreed at the Hearing that it was open to me to correct the allegation in the notice and also the plan. I am satisfied that no injustice will be caused by this and I will therefore correct the enforcement notice, in order to clarify the terms of the deemed application under section 177(5) of the 1990 Act as amended.
114. For the reasons given above I conclude that the appeal should succeed on ground (a) and I will grant planning permission in accordance with the application deemed to have been made under section 177(5) of the 1990 Act as amended, which will now relate to the corrected allegation. Similarly, for the reasons given above I conclude that the section 78 appeal should be allowed.

Notice D: Appeal N and the section 78 appeal, Appeal O

115. It is clear from the representations, and from my inspection of the site, that the description of the development in the enforcement notice is incorrect in that a utility building and manure store have not been built. The appellant and the local planning authority agreed at the Hearing that it was open to me to correct the allegation in the notice. I am satisfied that no injustice will be caused by this and I will therefore correct the enforcement notice in those two respects, in order to clarify the terms of the deemed application under section 177(5) of the 1990 Act as amended.

116. For the reasons given above I conclude that the appeal should succeed on ground (a) and I will grant planning permission in accordance with the application deemed to have been made under section 177(5) of the 1990 Act as amended, which will now relate to the corrected allegation. Similarly, for the reasons given above I conclude that the section 78 appeal should be allowed.

The section 78 appeal, Appeal P

117. For the reasons given above I conclude that the appeal should be allowed.

Notice C: Appeals K-M

118. For the reasons given above I conclude that the enforcement notice does not specify with sufficient clarity the alleged breach of planning control, the steps required for compliance, and the land where the breach of planning control is alleged to have taken place. It is open to me to correct some of the errors. However, it is not open to me to correct the error in the allegation in relation to the use of the potting shed in accordance with my powers under section 176(1)(a) of the 1990 Act, as amended, since injustice would be caused were I to do so. The notice is invalid and will be quashed. In these circumstances the appeals under grounds (a) and (g) as set out in section 174(2) of the 1990 Act as amended and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended do not fall to be considered.

D Fleming

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

A Heine BSc MSc MRTPI	Agent, Heine Planning Consultancy
D Kettle	Appellant
T Smith	Appellant
R Makepeace	Appellant
S Makepeace	Appellant's partner
S Best	Appellant
L Smith	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

R McQuillan BA Hons MA MRTPI	Agent, Robinson Escott Planning LLP
J Barnes	Planning Officer
D Jones	Senior Technical Officer

INTERESTED PERSONS:

Cllr M Round	Ward Member
C Carmichael	Clerk, Headcorn Parish Council
Cllr B Dungey	Vice Chair, Headcorn Parish Council

DOCUMENTS

1. Agreed Statement of Common Ground
2. Appeal decision Rosewood Farm, Detling
3. Site layout plan for Rosings
4. Corrected site identification plans Faithfield and Smiths View
- 5 Landscape Character information
6. Appeal decision Ten Acre Farm
7. Appellant's costs application
8. Copy of covering letter and plans from application 14/505637

Appendix 1

List of those who have appealed

Appeal A	Mrs K Kettle
Appeal B	Mr J Smith
Appeal C	Mr T Smith
Appeal D	Mr D Kettle
Appeal E	Mrs K Kettle
Appeal F	Mr D Smith
Appeal G	Mr J Smith
Appeal H	Mrs K Kettle
Appeal I	Mr T Smith
Appeal J	Mr D Smith
Appeal K	Mrs L Smith
Appeal L	Mr J Smith
Appeal M	Mr D Smith
Appeal N	Mr R Makepeace
Appeal O	Mr R Makepeace
Appeal P	Mrs S Best

Schedule of conditions for Appeal A, Ref: APP/U2235/C/18/3197294

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Planning Policy for Traveller Sites, August 2015, (or any subsequent definition that supersedes that document).
- 2) No more than two caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Site Act 1968 as amended, shall be stationed on the site at any one time, of which no more than one shall be a static caravan, and no further caravans shall be placed at any time anywhere within the site.
- 3) No external lighting shall be put in place or operated on the site at any time other than has been previously submitted to and approved in writing by the Local Planning Authority.
- 4) No vehicles over 3.5 tonnes shall be stationed, parked or stored on this site.
- 5) No commercial activity shall take place on the land including the storage of materials.
- 6) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed and the land restored to its condition before the development took place within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - (i) Within 3 months of the date of this Decision, a Site Development Scheme, referred to as the 'Scheme' including:
 - a) the internal layout of the site, the siting of the approved caravans, vehicular parking and manoeuvring areas;
 - b) Access details including use of bound surface for first 5m of access from the edge of the highway; inward opening gates to be set back a minimum of 5.5m from the edge of the carriageway;
 - c) Details of fencing and other means of enclosure, hard and soft landscaping for the site boundaries, including the retention of the native hedge along Love Lane, and including details of species, plant sizes and proposed numbers, and densities and measures for their protection and retention;
 - d) Details of the location, size and appearance of the two timber sheds;
 - e) Details of foul and surface water drainage; and
 - f) Details of waste disposal including collection point and storage areas

shall have been submitted for the written approval of the Local Planning Authority and the said Scheme shall include a timetable for its implementation.

- (ii) Within 11 months of the date of this decision the Scheme shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuse to approve the Scheme or fail to give a decision within the prescribed period, an appeal should have been made to and accepted as validly made by the Secretary of State.

- (iii) If an appeal is made in pursuance of (ii) above, that appeal should have been finally determined and the submitted SDS should have been approved by the Secretary of State.
- (iv) The approved SDS shall have been carried out and completed in accordance with the approved timetable.

The works comprised in the Scheme pursuant to condition 6 shall be retained for the duration of the use of the site and development.

- 7) Notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015, as amended, or any order revoking and/or re-enacting that Order with or without modification, no further gates, fences, walls or other means of enclosure, other than those agreed as part of the Site Development Scheme, shall be erected within the site or to the boundaries of the site without the prior written approval of the Local Planning Authority.

END

Schedule of conditions for Appeal E, Ref: APP/U2235/C/17/3192403

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Planning Policy for Traveller Sites, August 2015, (or any subsequent definition that supersedes that document).
- 2) No more than two caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Site Act 1968 as amended, shall be stationed on the site at any one time, of which no more than one shall be a static caravan, and no further caravans shall be placed at any time anywhere within the site.
- 3) No external lighting shall be put in place or operated on the site at any time other than has been previously submitted to and approved in writing by the Local Planning Authority.
- 4) No vehicles over 3.5 tonnes shall be stationed, parked or stored on this site.
- 5) No commercial activity shall take place on the land including the storage of materials.
- 6) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed and the land restored to its condition before the development took place within 28 days of the date of failure to meet any one of the requirements set out in (i) to (v) below:
 - (i) Within 3 months of the date of this Decision, a Site Development Scheme, hereafter referred to as the 'Scheme', including:
 - a) The internal layout of the site, the siting of the approved caravans, vehicular parking and manoeuvring areas;
 - b) Access details including use of bound surface for first 5m of access from edge of highway; inward opening gates to be set back a minimum of 5.5m from the edge of the carriageway;
 - c) Details of fencing and other means of enclosure, hard and soft landscaping for the northern and southern boundaries, including the retention of the native hedge along Love Lane, and including details of species, plant sizes and proposed numbers, and densities and measures for their protection and retention;
 - d) Details of foul and surface water drainage, and
 - e) Details of waste disposal including collection point and storage areasshall have been submitted for the written approval of the Local Planning Authority and the said Scheme shall include a timetable for its implementation.
 - (ii) Within 11 months of the date of this decision the Scheme shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuse to approve the Scheme or fail to give a decision within the prescribed period, an appeal should have been made to and accepted as validly made by the Secretary of State.

(iii) If an appeal is made in pursuance of (ii) above, that appeal should have been finally determined and the submitted SDS should have been approved by the Secretary of State.

(iv) The approved SDS shall have been carried out and completed in accordance with the approved timetable.

The works comprised in the Scheme pursuant to condition 6 shall be retained for the duration of the use of the site and development.

- 7) Notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015, as amended, or any order revoking and/or re-enacting that Order with or without modification, no further gates, fences, walls or other means of enclosure, other than those agreed as part of the Site Development Scheme, shall be erected within the site or to the boundaries of the site without the prior written approval of the Local Planning Authority.

END

Schedule of conditions for Appeal F, Ref: APP/U2235/C/18/3197279

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Planning Policy for Traveller Sites, August 2015, (or any subsequent definition that supersedes that document).
- 2) No more than two caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Site Act 1968 as amended, shall be stationed on the site at any one time, of which no more than one shall be a static caravan, and no further caravans shall be placed at any time anywhere within the site.
- 3) No external lighting shall be put in place or operated on the site at any time other than has been previously submitted to and approved in writing by the Local Planning Authority.
- 4) No vehicles over 3.5 tonnes shall be stationed, parked or stored on this site.
- 5) No commercial activity shall take place on the land including the storage of materials.
- 6) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed and the land restored to its condition before the development took place within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - (i) Within 3 months of the date of this Decision, a Site Development Scheme, hereafter referred to as the 'Scheme', including:
 - a) The internal layout of the site, the siting of the approved caravans, vehicular parking and manoeuvring areas;
 - b) Access details including use of bound surface for first 5m of access from edge of highway; inward opening gates to be set back a minimum of 5.5m from the edge of the carriage way;
 - c) Details of fencing and other means of enclosure, hard and soft
 - d) landscaping for the northern and southern boundaries, including the retention of the native hedge along Love Lane, and including details of species, plant sizes and proposed numbers, and densities and measures for their protection and retention;
 - e) Details of the location, size and appearance of the amenity building and timber shed;
 - f) Details of foul and surface water drainage,
 - g) Details of waste disposal including collection point and storage areas

shall have been submitted for the written approval of the Local Planning Authority and the said Scheme shall include a timetable for its implementation.

- (ii) Within 11 months of the date of this decision the Scheme shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuse to approve the Scheme or fail to give a decision within the prescribed period, an appeal should have been made to and accepted as validly made by the Secretary of State.

- (iii) If an appeal is made in pursuance of (ii) above, that appeal should have been finally determined and the submitted Scheme should have been approved by the Secretary of State.
- (iv) The approved Scheme shall have been carried out and completed in accordance with the approved timetable.

The works comprised in the Scheme pursuant to condition 6 shall be retained for the duration of the use of the site and development.

- 7) Notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015, as amended, or any order revoking and/or re-enacting that Order with or without modification, no further gates, fences, walls or other means of enclosure, other than those agreed as part of the Site Development Scheme, shall be erected within the site or to the boundaries of the site without the prior written approval of the Local Planning Authority.

END

Schedule of conditions for Appeal J, Ref: APP/U2235/W/18/3197271

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Planning Policy for Traveller Sites, August 2015, (or any subsequent definition that supersedes that document).
- 2) No more than two caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Site Act 1968 as amended, shall be stationed on the site at any one time, of which no more than one shall be a static caravan, and no further caravans shall be placed at any time anywhere within the site.
- 3) No external lighting shall be put in place or operated on the site at any time other than has been previously submitted to and approved in writing by the Local Planning Authority.
- 4) No vehicles over 3.5 tonnes shall be stationed, parked or stored on this site.
- 5) No commercial activity shall take place on the land including the storage of materials.
- 6) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed and the land restored to its condition before the development took place within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - (i) Within 3 months of the date of this Decision, a Site Development Scheme, hereafter referred to as the 'Scheme', including:
 - a) The internal layout of the site, the siting of the approved caravans, vehicular parking and manoeuvring areas;
 - b) Access details including the use of a bound surface for the first 5m of the access from the edge of the highway; and inward opening gates to be set back a minimum of 5.5m from the edge of the carriage way;
 - c) Details of fencing and other means of enclosure, hard and soft landscaping for the northern and southern boundaries, including the retention of the native hedge along Love Lane, and including details of species, plant sizes and proposed numbers, and densities and measures for their protection and retention;
 - d) Details of the location, size and appearance of the shed;
 - e) Details of foul and surface water drainage,
 - f) Details of waste disposal including collection point and storage areas

shall have been submitted for the written approval of the Local Planning Authority and the said Scheme shall include a timetable for its implementation.

- (ii) Within 11 months of the date of this decision the Scheme shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuse to approve the Scheme or fail to give a decision within the prescribed period, an appeal should have been made to and accepted as validly made by the Secretary of State.

(iii) If an appeal is made in pursuance of (ii) above, that appeal should have been finally determined and the submitted Scheme should have been approved by the Secretary of State.

(iv) The approved Scheme shall have been carried out and completed in accordance with the approved timetable.

The works comprised in the Scheme pursuant to condition 6 shall be retained for the duration of the use of the site and development.

- 7) Notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015, as amended, or any order revoking and/or re-enacting that Order with or without modification, no further gates, fences, walls or other means of enclosure, other than those agreed as part of the Site Development Scheme, shall be erected within the site or to the boundaries of the site without the prior written approval of the Local Planning Authority.

END

Schedule of conditions for Appeal N, Ref: APP/U2235/C/18/3197285

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Planning Policy for Traveller Sites, August 2015, (or any subsequent definition that supersedes that document).
- 2) No more than two caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Site Act 1968 as amended, shall be stationed on the site at any one time, of which no more than one shall be a static caravan, and no further caravans shall be placed at any time anywhere within the site.
- 3) No external lighting shall be put in place or operated on the site at any time other than has been previously submitted to and approved in writing by the Local Planning Authority.
- 4) No vehicles over 3.5 tonnes shall be stationed, parked or stored on this site.
- 5) No commercial activity shall take place on the land including the storage of materials.
- 6) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed and the land restored to its condition before the development took place within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - (i) Within 3 months of the date of this Decision, a Site Development Scheme, hereafter referred to as the 'Scheme', including:
 - a) The internal layout of the site, the siting of the approved caravans, vehicular parking and manoeuvring areas; and the widened access;
 - b) Access details including the use of a bound surface for the first 5m of the access from the edge of the highway; and inward opening gates to be set back a minimum of 5.5m from the edge of the carriage way;
 - c) Details of fencing and other means of enclosure, hard and soft landscaping for the northern and southern boundaries, including the retention of the native hedge along Love Lane, and including details of species, plant sizes and proposed numbers, and densities and measures for their protection and retention;
 - d) Details of the location, size and appearance of the stable block;
 - e) Details of foul and surface water drainage,
 - f) Details of waste disposal including collection point and storage areas

shall have been submitted for the written approval of the Local Planning Authority and the said Scheme shall include a timetable for its implementation.

- (ii) Within 11 months of the date of this decision the Scheme shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuse to approve the Scheme or fail to give a decision within the prescribed period, an appeal should have been made to and accepted as validly made by the Secretary of State.

(iii) If an appeal is made in pursuance of (ii) above, that appeal should have been finally determined and the submitted Scheme should have been approved by the Secretary of State.

(iv) The approved Scheme shall have been carried out and completed in accordance with the approved timetable.

The works comprised in the Scheme pursuant to condition 6 shall be retained for the duration of the use of the site and development.

- 7) Notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015, as amended, or any order revoking and/or re-enacting that Order with or without modification, no further gates, fences, walls or other means of enclosure, other than those agreed as part of the Site Development Scheme, shall be erected within the site or to the boundaries of the site without the prior written approval of the Local Planning Authority.

END

Schedule of conditions for Appeal O, Ref: APP/U2235/W/17/3192402

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Planning Policy for Traveller Sites, August 2015, (or any subsequent definition that supersedes that document).
- 2) No more than two caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Site Act 1968 as amended, shall be stationed on the site at any one time, of which no more than one shall be a static caravan, and no further caravans shall be placed at any time anywhere within the site.
- 3) No external lighting shall be put in place or operated on the site at any time other than has been previously submitted to and approved in writing by the Local Planning Authority.
- 4) No vehicles over 3.5 tonnes shall be stationed, parked or stored on this site.
- 5) No commercial activity shall take place on the land including the storage of materials.
- 6) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed and the land restored to its condition before the development took place within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - (i) Within 3 months of the date of this Decision, a Site Development Scheme, hereafter referred to as the 'Scheme', including:
 - a) The internal layout of the site, the siting of the approved caravans, vehicular parking and manoeuvring areas;
 - b) Access details including the use of a bound surface for the first 5m of the access from the edge of the highway; inward opening gates to be set back a minimum of 5.5m from the edge of the carriage way;
 - c) Details of fencing and other means of enclosure, hard and soft landscaping for the northern and southern boundaries, including the retention of the native hedge along Love Lane, and including details of species, plant sizes and proposed numbers, and densities and measures for their protection and retention;
 - d) Details of the location, size and appearance of the utility building, stable block and manure store;
 - e) Details of foul and surface water drainage, flood risk assessment and flood protection;
 - f) Details of waste disposal including collection point and storage areasshall have been submitted for the written approval of the Local Planning Authority and the said Scheme shall include a timetable for its implementation.
 - (ii) Within 11 months of the date of this decision the Scheme shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuse to approve the Scheme or fail to give a decision within the prescribed period, an appeal should have been made to and accepted as validly made by the Secretary of State.

- (iii) If an appeal is made in pursuance of (ii) above, that appeal should have been finally determined and the submitted Scheme should have been approved by the Secretary of State.
- (iv) The approved Scheme shall have been carried out and completed in accordance with the approved timetable.

The works comprised in the Scheme pursuant to condition 6 shall be retained for the duration of the use of the site and development.

- 7) Notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015, as amended, or any order revoking and/or re-enacting that Order with or without modification, no further gates, fences, walls or other means of enclosure, other than those agreed as part of the Site Development Scheme, shall be erected within the site or to the boundaries of the site without the prior written approval of the Local Planning Authority.

END

Schedule of conditions for Appeal P, Ref: APP/U2235/W/18/3197461

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Planning Policy for Traveller Sites, August 2015, (or any subsequent definition that supersedes that document).
- 2) No more than two caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Site Act 1968 as amended, shall be stationed on the site at any one time, of which no more than one shall be a static caravan, and no further caravans shall be placed at any time anywhere within the site.
- 3) No external lighting shall be put in place or operated on the site at any time other than has been previously submitted to and approved in writing by the Local Planning Authority.
- 4) No vehicles over 3.5 tonnes shall be stationed, parked or stored on this site.
- 5) No commercial activity shall take place on the land including the storage of materials.
- 6) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed and the land restored to its condition before the development took place within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - (i) Within 3 months of the date of this Decision, a Site Development Scheme, hereafter referred to as the 'Scheme', including:
 - a) The internal layout of the site, the siting of the approved caravans, vehicular parking and manoeuvring areas;
 - b) Access details including the use of a bound surface for the first 5m of the access from the edge of the highway; and inward opening gates to be set back a minimum of 5.5m from the edge of the carriage way;
 - c) Details of fencing and other means of enclosure, hard and soft landscaping for the northern and southern boundaries, including the retention of the native hedge along Love Lane, and including details of species, plant sizes and proposed numbers, and densities and measures for their protection and retention;
 - d) Details of the location, size and appearance of the polytunnel and the stable/tractor store building;
 - e) Details of foul and surface water drainage, and
 - f) Details of waste disposal including collection point and storage areasshall have been submitted for the written approval of the Local Planning Authority and the said Scheme shall include a timetable for its implementation.
 - (ii) Within 11 months of the date of this decision the Scheme shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuse to approve the Scheme or fail to give a decision within the prescribed period, an appeal should have been made to and accepted as validly made by the Secretary of State.

- (iii) If an appeal is made in pursuance of (ii) above, that appeal should have been finally determined and the submitted Scheme should have been approved by the Secretary of State.

- (iv) The approved Scheme shall have been carried out and completed in accordance with the approved timetable.

The works comprised in the Scheme pursuant to condition 6 shall be retained for the duration of the use of the site and development.

- 7) Notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015, as amended, or any order revoking and/or re-enacting that Order with or without modification, no further gates, fences, walls or other means of enclosure, other than those agreed as part of the Site Development Scheme, shall be erected within the site or to the boundaries of the site without the prior written approval of the Local Planning Authority.

END



Plan

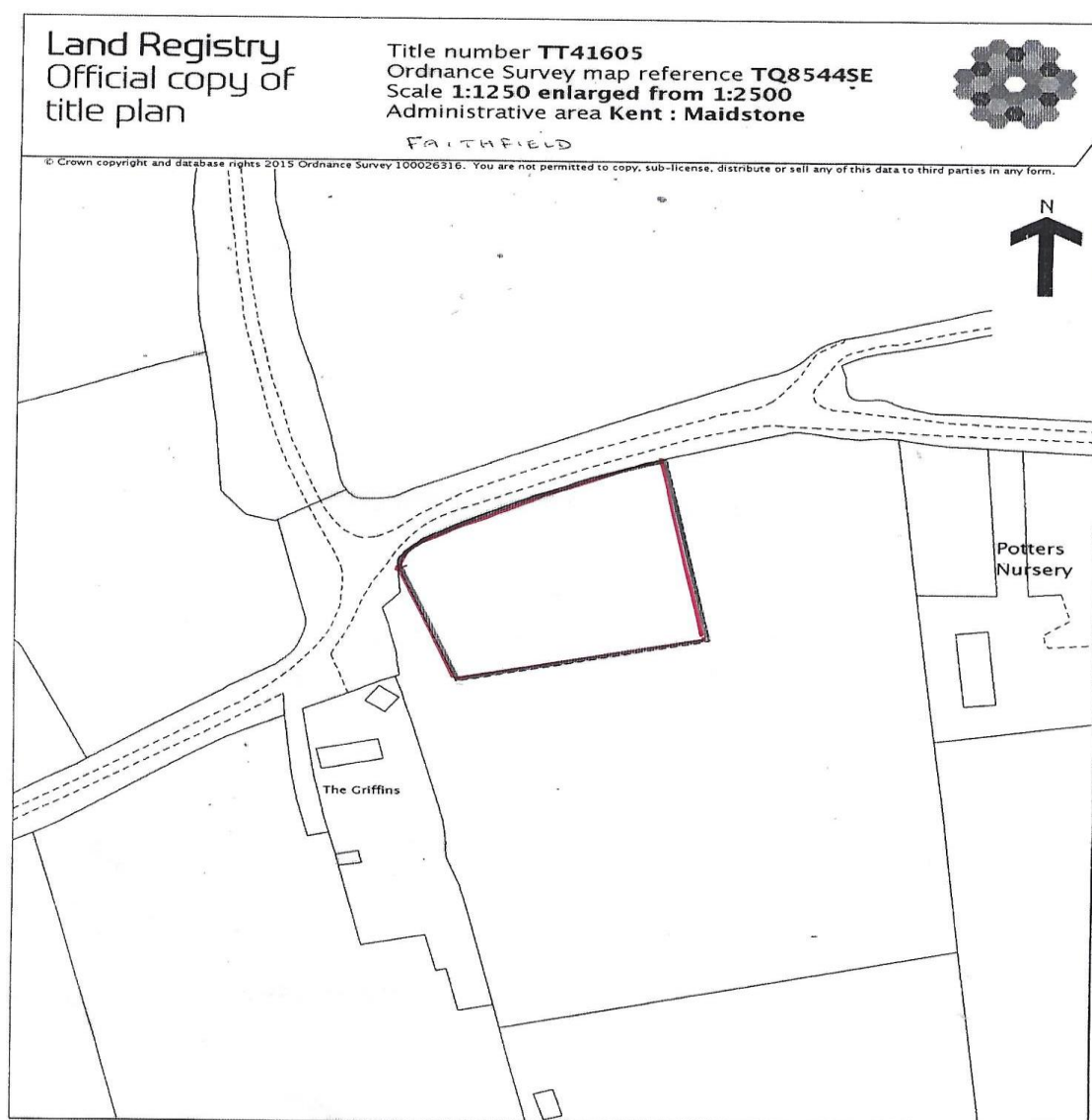
This is the plan referred to in my decision dated: 13 August 2019

by **D Fleming BA (Hons) MRTPI**

Land at: Faithfield, Love Lane, Headcorn, Kent TN27 9HJ

Reference: APP/U2235/18/3197294

Scale: nts



This official copy is incomplete without the preceding notes page.



Plan

This is the plan referred to in my decision dated: 13 August 2019

by D Fleming BA (Hons) MRTPI

Land at: Smiths View, Love Lane, Headcorn, Kent TN27 9HJ

Reference: APP/U2235/18/3197279

Scale:nts

