



# REGULATORY SERVICES COMMITTEE

# REPORT

21 August 2014

**Subject Heading:**

Land lying to the North of St Marys Lane  
also known as Tyas Stud Farm, St Marys  
Lane, Upminster

**Report Author and contact details:**

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Local Development Framework

**Policy context:**

**Financial summary:**

Enforcement action and a defence of the  
Council's case in any appeal will have  
financial implications.

**The subject matter of this report deals with the following Council Objectives**

Ensuring a clean, safe and green borough	<input checked="" type="checkbox"/>
Championing education and learning for all	<input type="checkbox"/>
Providing economic, social and cultural activity in thriving towns and villages	<input type="checkbox"/>
Value and enhance the life of our residents	<input checked="" type="checkbox"/>
Delivering high customer satisfaction and a stable council tax	<input type="checkbox"/>

## SUMMARY

This report concerns rural land to the north of St Marys Lane, Upminster which is within the Metropolitan Green Belt. In March 2013 the Planning Enforcement service received a complaint that travellers were importing soil and hardcore materials onto the site. A Temporary Stop Notice and Injunction was served to stop further works and to prevent caravans or mobile homes to be brought onto the site. Despite the notice and Injunction works continued and the site was laid out as two travellers pitches. The site is now permanently occupied as a gypsy-travellers site.

## RECOMMENDATIONS

That the committee consider it expedient that an Enforcement Notice be issued and served to require, by 6 months:

1. Cease the unauthorised use of the Land, for residential purposes.
2. Cease the use of the Land for the parking of vehicles.
3. Cease the use of the Land for storage purposes (associated with the unauthorised use).
4. Remove from the Land all mobile homes, caravans, vehicles, sheds, fences, decking, septic tanks, goods, machinery, rubbish, apparatus, equipment associated and installations brought onto the Land in connection with the unauthorised use.
5. Remove all hardstanding and materials deposited on the Land in connection with the unauthorised development.
6. Reinstate the Land to a condition suitable for rough grazing uses.

In the event of non compliance, and if deemed expedient, that proceedings be instituted under the provisions of the Town and Country Planning Act 1990.

## REPORT DETAIL

### 1. Site Description

The site is a rectangular shaped plot some 0.6 hectares in size and is sited in the Metropolitan Green Belt. The site lies to the north of St Marys Lane, Upminster immediately to the east of the M25. To the south of the site is Latchford Farm Aquatics which shares the same access road from St Marys Lane. To the north of the site is the C2C London Fenchurch Street to Southend Railway Line. The wider surrounding area overwhelmingly comprises of open land which forms part of the Metropolitan Green Belt.

In 2013 large amounts of hardstanding and soil were imported onto the site and two travellers pitches have been formed. This covers a substantial part of the site. Two new cement bases have been laid and two double unit mobile homes have been brought onto the site. The site is now occupied by two traveller families that permanently live on the site.

Also within the site is a large stable block (granted on appeal in 2006). The two double unit mobile homes also have verandas, brick plinths and picket fences to the front. . A concrete hardstanding has been formed adjacent to the stable block on which is placed a portable building/shed and a gas storage container. A touring caravan is also present on site.

The two pitches are separated by a post and rail fence. A 1.8 metre wooden panel fence has been erected along the southern and eastern boundaries of the site. The eastern and southern boundaries outside the fence line have mature hedges. To the west is the motorway embankment, which is mainly grass.

There are two residential properties close to the site at Latchford Farm and at Wyngray Farm to the south east of the site. The site lies within the Green Belt and the area of the Thames Chase Community Forest.

## 2. **Relevant Planning and Enforcement History**

### **Planning history**

P1174.05 – Change of use to residential and stationing of two mobile homes and touring caravans – Refused 18-08-2005

P2122.05 – Change of use of the land to residential use and stationing of two mobile homes and a touring caravan for an extended Gypsy family. Refused 17-01-2006 Appeal allowed 11-10-2006 for 3 years

P2218.05 -Retrospective planning application for the retention of a stable block. Refused 01-02-2006 Appeal allowed 11-10-2006

P1363.09 - Renewal of planning permission for stationing of 1 mobile home on the land. This application was approved by the Council for a temporary period of 3 years. The permission was personal to the applicant, Mr Port and the decision notice was dated 26 February 2010. Temporary planning permission ran out on 26 February 2013.

P0773.13 - Change of use of land to caravan site for 2 pitches for occupation by two gypsy-travellers families with associated hard standing, utility block and package treatment plant (Part retrospective). – Refused 19-05-2014

### **Enforcement history**

14 May 2013 - Temporary Stop Notice was served. The notice required unauthorised operational development of the Land to cease, including the importation and deposition of materials onto the Land including but not limited to hardcore and soils and the movement and spreading of materials. It also required all engineering operations on the Land, including the raising of levels on the Land to cease. Copies of the notice were delivered to the workers on site and copies were posted on the site and surrounding area.

24 May 2013 - Romford County Court granted an Injunction Order under Section 187B of the Town and Country Planning Act 1990 with a return date of 10 June 2013.

25 May 2013 - Injunction were served on two workmen on site. Copies of the Injunction was posted on the site and further copies left in the letterbox.

10 June 2013 Romford County Court granted a Permanent Injunction Order under Section 187B of the Town and Country Planning Act 1990. The Injunction prevents any person causing or permitting any unauthorised development of the land. Unauthorised development includes, but is not limited to, the importation of hardcore, soils and other construction materials onto the land and the formation of hardstanding whether by spreading, levelling or compacting materials. It also prevents any person from stationing any mobile homes, caravans or motor homes or for any residential use on the land without the prior grant of planning permission. The Injunction also order the removal of any mobile homes and/or caravans and all building materials including but not limited to fabric membrane, hardcore, gravel, sand, tarmac and soil brought on to the land in association with the unlawful formation of hardstanding on the land by 8 July 2013.

### 3. **The Alleged Planning Contravention**

Without planning permission, the material change of use of the Land to residential use through; the stationing of mobile homes and touring caravans on the Land for residential purposes; the importation of soil and the laying on hard surfacing on the land, the parking of vehicles and open storage on the Land.

### 4. **Policy and Other Material Considerations**

The Land lies within the Metropolitan Green Belt where the guidance in Policy E of the Planning Policy for Travellers sites (2012) is that traveller sites (temporary or permanent) are considered inappropriate development. Inappropriate development is by definition harmful to the Green Belt and should not be approved, except in very special circumstances. The guidance in the NPPF is that local planning authorities should ensure that substantial weight is given to the harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. This guidance has been reinforced in two recent ministerial statements in July 2012 and January 2014.

The unauthorised use of the Land for a gypsy and travellers site has a materially harmful impact on the Metropolitan Green Belt. The unauthorised use is detrimental to the visual amenity and character of the surrounding

area in general and is harmful to the essential open nature of this part of the Metropolitan Green Belt.

Both national and local planning policies provide for the protection of the Metropolitan Green Belt, the fundamental aim of Green Belts being to prevent urban sprawl by keeping land permanently open.

The Council has published a Gypsy and Travellers Sites Local Plan which has been submitted for formal examination by a planning inspector. However, whilst the public examination has commenced the Planning Inspector has issued a further note to the Council in which she agrees to suspend the examination of the Gypsy and Traveller Sites Local Plan. This is to allow the Council time to undertake additional work and public consultation on the plan. A date for the continuation of the examination has not yet been set, therefore, the formal adoption of the Local Plan is not anticipated until the end of 2014. Table 2 of the submission Local Plan identifies the application site as having one pitch.

Policies CP2 and DC8 of the Core Strategy and Development Control Policies DPD apply to the provision of travellers sites. CP2 states that sites will be identified to meet identified needs and DC8 sets criteria for the consideration of applications for travellers' sites. These include meeting an identified need and the site being capable of accommodating the number of caravans proposed. In the Green Belt the design, layout and landscaping should, amongst other things minimise the impact on openness and should not prejudice the purposes of including land in the Green Belt.

It is considered that the unauthorised use of the Land for two travellers' pitches has a materially harmful impact on the openness of the Green Belt. The size of the pitches, the extent of hardstanding, the introduction of mobile homes, caravans, fences, flowerbeds and sheds has a materially harmful impact on the openness of the Green Belt.

The occupiers carried on with the works despite the Temporary Stop Notice and the Injunction being served and gradually changed the rural open nature of the site to a former gypsy and travellers site.

The occupier's personal circumstances are known to the Council and have been formally considered however it is considered that the personal circumstances do not amount to the very special circumstances needed to over-ride planning policy in the Green Belt.

It is also regarded that the permanent residential accommodation would create infrastructure demands. The Council adopted a Planning Obligation Supplementary Planning Document in 2013 that sets a standard charge of £6,000 per dwelling to help meet the infrastructure requirements of new development.

## 5. **Recommendation for action**

The site lies within the area identified in the Havering Local Development Framework Core Strategy and Development Control Policies Development Plan Document as Metropolitan Green Belt. Policy DC45 of the Development Plan Document and government guidance in the National Planning Policy Framework set out what development is appropriate in Green Belts. Government guidance in Planning Policy for Traveller Sites states that traveller sites (temporary or permanent) in the Green Belt are inappropriate development. Such development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. No very special circumstances have been demonstrated in this case sufficient to outweigh the demonstrable harm that the development would cause to the openness of the Green Belt and the rural character of the area. The development would, therefore be contrary to policy DC45 of the Core Strategy and Development Control Policies Development Plan Document and the guidance in the National Planning Policy Framework and the Planning Policy for Traveller Sites.

It is therefore recommended that an Enforcement Notice be served.

### **IMPLICATIONS AND RISKS**

#### **Financial implications and risks:**

Enforcement action may have financial implications for the Council.

#### **Legal implications and risks:**

Enforcement action, defence of any appeal and, if required, prosecution procedures will have resource implications for the Legal Services.

#### **Human Resources implications and risks:**

No implications identified.

#### **Equalities implications and risks:**

Section 149 of the Equalities Act 2010 (EA) came in to force on 1<sup>st</sup> April 2011 and broadly consolidates and incorporates the 'positive equalities duties' found in Section 71 of the Race relations Act 1976 (RRA), Section 49 of the Disability Discrimination Act 1995 (DDA) and section 76(A)(1) of the Sexual Discrimination Act 1975 (SDA) so that due regard must be had by the decision maker to specified equality issues. The old duties under the RRA, DDA and SDA remain in force.

The duties under Section 149 of the EA do not require a particular outcome and what the decision making body decides to do once it has had the required regard to the duty is for the decision making body subject to the ordinary constraints of public and discrimination law including the Human Rights Act 1998.

Having consider the above duty and the Human Rights Act 1998 there are no equality or discrimination implications even though the group of people involved with the unauthorised use are 'travellers' which are regarded as an ethnic group in their own right. However the travellers do not have a specific need to be on this site whether it is for ethnic or any other reason, this was investigated by staff at the time of the site visit and face to face conversations with the people living in the caravans. In the circumstance of a continuing and serious breach of planning control and the significant harm to amenity of the Metropolitan Green Belt the public interest in the amenity afforded by the protection of the Green belt outweighs the individual protection afforded by the Human Rights Act 1998 of those in breach.

## **BACKGROUND PAPERS**

- 1. Non-exempt notes and correspondence on case file*
- 2. Aerial Photographs*
- 3. Relevant Planning History*