



REGULATORY SERVICES COMMITTEE

REPORT

17 November 2011

Subject Heading:

P0336.11 – Gravel Pit Coppice Caravan Site, Benskins Lane, Noak Hill, Romford

Retention of use of land as a private gypsy and traveller caravan site comprising of six pitches (Application received 2nd March 2011 and additional information received 21st September 2011)

Report Author and contact details:

Helen Oakerbee (Planning Control Manager) 01708 432800

Policy context:

**Local Development Framework
London Plan
National Planning Policy**

Financial summary:

None

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

Clean, safe and green borough	[X]
Excellence in education and learning	[]
Opportunities for all through economic, social and cultural activity	[]
Value and enhance the life of every individual	[]
High customer satisfaction and a stable council tax	[]

SUMMARY

This application seeks planning permission for the retention of a six-plot residential caravan site for gypsy/traveller occupation. The use was originally established at this Green Belt site without planning permission however planning permission was subsequently granted on a temporary basis for a period of three years. Staff do not consider that there are the very special circumstances such as to justify a permanent departure from Green Belt policy. However, there is a shortage of sites in the Borough and in line with recent appeal decisions staff consider that a temporary permission for a further three years should be granted pending the assessment of sites for the 'Gypsy and Traveller Caravan Sites Development Plan Document'.

RECOMMENDATIONS

That planning permission is granted subject to the following conditions:

- 1) Temporary planning permission - This permission shall be for a limited period only expiring on 3rd November 2014 on or before which date the use hereby permitted shall be discontinued, any buildings and works carried out under this permission shall be removed and the site reinstated to its former condition to the satisfaction of the Local Planning Authority.

Reason: To protect the amenities of the area and maintain the open character of the Green Belt

- 2) Restriction on occupation - This permission does not authorise use of the land as a caravan site by any persons other than gypsies and travellers, as defined in paragraph 15 of DCLG (ODPM) Circular 01/2006.

Reason: Permission is granted solely in recognition of the unmet need for gypsy and traveller sites in Havering.

- 3) Stationing of caravans or mobile homes - The residential use hereby permitted shall be restricted to the stationing of: Plot 1 - no more than 3 static caravans or mobile homes at any time; Plot 2 - no more than 2 static caravans or mobile homes; Plot 3 - no more than two static caravans or mobile homes; Plot 4 - no more than two static caravans or mobile homes; Plot 5 - no more than two static caravans or mobile homes and Plot 6 - no more than two static caravans or mobile homes.

Reason: To protect the amenities of the area and maintain the open character of the Green Belt

- 4) Occupiers - The use hereby permitted shall be carried on only by: Plot 1 Christine and John Dooley and their children; Plot 2 Mary Clarke and Mary Nugent and her children; Plot 3 Kathleen O'Driscoll and her children; Plot 4

Rose Docherty and her children and Jo Lee and her children; Plot 5 Michael Delany, Madeline O'Brien and her children; and Plot 6 Threase Clarke and her children, and shall be for a limited period being the period of 3 years from the date of this decision, or the period during which the individual plots are occupied by the persons named above, whichever is the shorter. No plots shall be re-occupied once vacated by the named occupier(s).

Reason: Permission is granted for a period pending the allocation of sites in a future Development Plan Document on gypsy and traveller sites and in recognition of the particular circumstances of the applicants.

- 5) No commercial activities - No commercial activities shall take place on the land, including the storage of materials.

Reason: To protect the amenities of the area and the openness of the Green Belt

- 6) Reinstatement of land - When the individual plots cease to be occupied by the persons specified in condition 3 above no further occupation of the plot shall take place. Once all of the plots cease to be occupied or at the end of the 3 years of this permission, whichever shall first occur, the use hereby permitted shall cease, all materials and equipment brought onto the premises in connection with the use shall be removed and the land restored to its former condition.

Reason: To protect the amenities of the area and the open nature of the Green Belt

- 7) Accordance with plans - The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans, particulars and specifications.

Reason: The Local Planning Authority consider it essential that the whole of the development is carried out and that no departure whatsoever is made from the details approved, since the development would not necessarily be acceptable if partly carried out or carried out differently in any degree from the details submitted.

INFORMATIVE:

Reason for approval:

The proposed development is considered to be inappropriate development in the Green Belt and the unmet need for gypsy and traveller sites, together with the particular needs of the applicants, either individually or together do not amount to the very special circumstances necessary to justify a permanent departure from government guidance in PPG2 and Policy DC45 of the LDF Core Strategy and Development Control Policies Development Plan Document. The development would otherwise be in accordance with Policy DC8 of the LDF Core Strategy and Development Control Policies Development Plan Document. Temporary permission has been granted on appeal at other sites in the vicinity to meet short-

term need until the Council has assessed sites within the Borough to meet future needs in its proposed Gypsy and Travellers Development Plan Document. These decisions have been accorded appropriate weight and a temporary permission is granted for three years in recognition of this situation.

REPORT DETAIL

1. Site Description

- 1.1 The site, which amounts to 0.6 Hectares lies within the Green Belt to the north of the main residential areas of Harold Hill. The site lies at the northern end of Benskins Lane, an unmade road that runs from Church Road to the M25. The site consists of six plots, each with hard surfacing and grassed areas. Close-boarded fencing separates the plots from each other and each contains one mobile home and at least one touring caravan. There are a number of smaller buildings within each plot, including timber sheds used as utility buildings and parking areas for vehicles. There are 46 people living on the site, including 27 children, with some of the plots being occupied by a number of families.
- 1.2 The plots are all accessed from Benskins Lane, via an access road along the northern boundary that runs parallel to the M25. There is woodland to the north east and west. To the south it is mainly open, but there are a number of open storage yards, industrial and commercial uses along Benskins Lane, a number of which are unauthorised. There are also a number of residential properties along the lane. The application site was originally protected woodland, but was developed without planning permission.

2. Description of Proposal

- 2.1 This application seeks permission for the retention of the residential caravan site, with associated hardstanding, fencing, utility buildings and septic tank. A permanent permission is sought, but a temporary permission of 5 years in line with other recent permissions is stated as being acceptable. The application details indicate that, should permanent permission be granted, permission would be sought for the existing utility buildings to be replaced with more substantial brick structures. The application sets out the particular needs of the families on site and the benefits of a settled base, especially in relation to access to medical and education services. A case is also made in the application for at least a temporary permission based upon the lack of suitable alternative sites in Havering.

3. Relevant History

- 3.1 Two enforcement notices have been served by the Council in respect of unauthorised development at the site, one concerning the operational development and the other the change of use. Decisions on subsequent

appeals were made in 2005. The first decision confirmed the notice requiring the removal of the hardsurfacing, equipment, installations etc. within one month i.e. March 2005, but extended the period for the replanting of the site to March 2006. Neither of these requirements were met.

- 3.2 In the second appeal the Secretary of State considered the change of use and concluded the various individual circumstances of the applicant did not amount to very special circumstances sufficient to overcome the material harm that there would be to the Green Belt. However, whilst planning permission was refused, the period for compliance was extended to 14th September 2007 to allow sufficient time for the occupiers to find an alternative site.
- 3.3 A retrospective planning application was submitted in September 2007 for the retention of the site (application reference P1710.07). In making an assessment of this application staff concluded there were no very special circumstances to justify a departure from Green Belt policy. However, it was recognised that there is a shortage of sites in the Borough and consideration was given to a number of appeal decisions on sites nearby. Staff concluded that a temporary permission for three years should be granted pending the assessment of sites for the Gypsy and Travellers Development Plan Document. This temporary permission expired on the 2nd January 2011.

4. Consultations/Representations

- 4.1 The application was advertised and notification letters sent to 25 adjoining occupiers. Four letters of objection have been received expressing concern over the impact on the Green Belt and changing character of the area. The letters also raise objection to the application on the basis that the site has eroded the countryside, could result in the sites expansion and the potential for increased crime in the vicinity

5. Relevant Policies

- 5.1 Policies CP2, CP14, DC8, DC33, DC45, DC58 and DC61 of the Local Development Framework Core Strategy and Development Control Policies Development Plan Document are material planning considerations. The Council is in the process of producing a Gypsy and Traveller Development Plan Document. Work is continuing on the document and adoption is not currently anticipated until April 2012.
- 5.2 Policy 3.8 (Housing Choice) and 7.16 (Green Belt) of the London Plan are material considerations.
- 5.3 National policy guidance set out in Planning Policy Guidance Note 2 (Green Belts) and Planning Policy Statement 7 (Sustainable Development in Rural Areas) are also relevant.
- 5.4 In addition to the above, Circular 1/2006 'Planning for Gypsy and Traveller Caravan Sites' is a material consideration in the determination of this application. The Government has announced that they intend to replace

Circular 1/2006, but it has not been repealed. Articles 1 and 8 of the first Protocol of the European Court of Human Rights are also relevant.

6. Staff Comments

- 6.1 The issues arising from this application is whether this is an appropriate use in the Green Belt or whether there are any material considerations that could represent the very special circumstances by which development may exceptionally be permitted in the Green Belt.
- 6.2 The application includes a statement supporting the status of the applicant, and the other families on the site, as gypsies/travellers. In the appeal decision into the change of use in 2005, the Secretary of State accepted the Inspector's assessment of the gypsy status of a majority of the then occupiers of the site. There is no evidence that the situation has substantially changed, therefore, staff accept the gypsy/traveller status of the applicants so that the relevant LDF policies (CP2 & DC8) and the guidance in Circular 1/2006 applies to this application.
- 6.3 Principle of the development:
- 6.3.1 The main intentions of Circular 1/2006 'Planning for Gypsy and Traveller Caravan Sites' include the creation of sustainable, respectful and inclusive communities, a reduction of the number of unauthorised encampments, to increase the number of Gypsy and Traveller sites in appropriate locations, to recognise the traditional travelling way of life of Gypsies and Travellers whilst respecting the interests of the settled community, to assess accommodation needs at all levels, to identify and make provision for accommodation requirements, to ensure fair policies, to promote more private Gypsy and Traveller site provision in appropriate locations through the planning system and to help to avoid Gypsies and Travellers becoming homeless through eviction from unauthorised sites.
- 6.3.2 The Circular explains that the planning process in relation to Gypsy and Traveller accommodation assessment and provision will begin by Local Authorities assessing the level of need and identifying approximate pitch requirements. These figures will then be passed to the Regional Planning Board to assist in the production of the Regional Spatial Strategy. The Regional Spatial Strategy will consider need from a regional perspective before, where appropriate, specifying pitch numbers for each local administrative area. The Local Planning Authority is then required to translate that allocation into specific sites by way of a Development Plan Document on Gypsy and Traveller Site Provision, as part of its Local Development Framework.
- 6.3.3 Since the publication of the circular, circumstances have changed with the abolition of Regional Spatial Strategies. However, The London Plan remains in force and the draft alterations to it no longer specify pitch numbers to be provided by London Boroughs. This does not however, override the need to produce a Development Plan Document on Gypsy and Traveller Site Provision. Havering's Core Strategy Development Plan

Document gives a commitment to the production of a Development Plan Document on Gypsy and Traveller site provision. Preparation of the Development Plan Document is on-going. The Circular advises that Local Planning Authorities must have regard to the findings of any associated Development Plan Document or any initial assessment work carried out before determining a planning application for a gypsy or traveller site, particularly if it decides to refuse such an application. Until such time as the Development Plan Document is adopted, the issue of need remains unquantified within Havering and this is a material consideration in the determination of this application.

- 6.3.4 With regards to site specific characteristics, Circular 1/2006 asserts that the granting of permission must be consistent with agricultural, archaeological, countryside, environmental and Green Belt policies. The aim should always be to secure provision appropriate to gypsies accommodation needs while protecting amenity. The circular goes on to state that the appropriate use of planning conditions can enable some development proposals to proceed. In some cases, for example where the applicants themselves propose to use a site for only a limited time, or where land is to be redeveloped on some occasion in the future, it may be appropriate to impose a condition allowing use for only a specified period. However, unless such circumstances prevail, permission should generally be given for an indefinite period.
- 6.3.5 Policy DC8 of the LDF identifies seven criteria to address the guidance laid out in Circular 1/2006 'Planning for Gypsy and Traveller Caravan Sites'. These state that the Council will only approve proposals for gypsy/traveller sites, where (i) the proposal helps meet an identified need, (ii) it is suitable for mixed residential and business uses and has no adverse impact on local residential amenity, (iii) there will be safe access into/out of the site, (iv) the site is reasonably accessible to local services and facilities, (v) there will be adequate parking, turning space and servicing within the site, (vi) it is capable of accommodating the number of caravans, (vii) the site will be supplied with essential services such as water, sewerage and drainage, and waste disposal.
- 6.3.6 The site has an acceptable access which also serves a number of sites, including residential, commercial and other gypsy pitches. There is also adequate room within the site for the number of caravans and for the parking and turning of vehicles. The site is provided with the necessary services. There are no proposals for mixed use of any of the plots and such use could be restricted by condition, similar to other sites in the area. The site already has woodland to the north, east and west, but the area to the south is generally open. However, there is little scope for any further landscaping. Given the remoteness of the site and the nature of adjoining uses staff consider that no further landscaping would be necessary. It is also relevant to take account of the requirement to re-plant the site at the end of the occupation period. The development would also meet an identified need, although not a local need. Therefore, apart from its location in the Green Belt staff consider that the proposal meets the requirements of Policy DC8.

6.4 Green Belt Implications and Very Special Circumstances

- 6.4.1 The application site lies within the Green Belt where Government planning policy contained within PPG2 sets out a general presumption against inappropriate development. The three main issues in this case are the inappropriateness of the change of use of the land, any other harm (such as visual impact) and the case for very special circumstances. New gypsy and traveller sites would normally be considered inappropriate development and as such would be contrary to the guidance in PPG2 and Policy DC46 of the LDF. The guidance in Circular 1/2006 is that alternatives should be explored before Green Belt sites are considered. However, staff recognise that suitable sites are unlikely to be found in urban areas; therefore, the Green Belt offers the only realistic alternative in Havering. This position has been confirmed in a number of past appeal decisions. The application site contains a fairly large number of families and as such there are a number of mobile homes/caravans and other ancillary facilities on the site. This represents a high density of occupation, compared with other sites and Members may conclude that the continued occupation of this site would have a significantly greater adverse impact on the Green Belt, even in the short term.
- 6.4.2 Inappropriate development can be justified if there are very special circumstances sufficient to override the harm that would be caused to the openness of the Green Belt. The lack of available sites in the area can amount to very special circumstances, especially where there is an identified need. The Council does not provide any gypsy sites and as stated above until such time as the Development Plan Document is adopted the issue of local need remains un-quantified. Therefore, whilst the development is inappropriate in the Green Belt and unacceptable in principle, the lack of suitable sites to meet an identified need may be, either singly or in combination with other factors, sufficient to override this objection.
- 6.4.3 In September 2005 the then Secretary of State allowed the occupiers to stay on site for a further two years to give time for them to find alternative accommodation. This did not amount to a planning permission, rather an extension to the period of compliance on an enforcement notice. Since that decision the number of families occupying the site has increased and the use has intensified, although the site area remains the same. Key to the Secretary of State's decision not to grant planning permission was his consideration of both the shortage of sites in the area and the special needs of the families on site. The Secretary of State considered that the families didn't have such strong local links to the area which meant that they could not look further afield for an alternative site. He concluded that neither of these factors was sufficient to override the material harm to the Green Belt. The Secretary of State also took into account of the implications of the Human Rights Act.
- 6.4.4 In granting a temporary three year planning permission in 2007 Members gave consideration to the Secretary of State's decision and to a case of very special circumstances put forward by the applicant. This case included

individual circumstances of the occupiers and their need for a settled base, especially in relation to access to education and medical services. The development being applied for is broadly similar to that previously granted temporary approval, save for the fact that several of the sites occupiers have changed. The applicant has advised that the case of very special circumstances for those occupiers who lived on the site in 2007 remains unchanged. For those new occupiers who have moved onto the site since 2007 the applicant has provided a new case of very special circumstances. This case is formed around the fact that each occupier has children either within full time education at local schools or within local nurseries. The applicant also advises that a number of the older children attend local youth centres and boxing clubs and have therefore made links with the local community. In the case of plots 1 and 6 the applicant advises that some children require regular visits to the local hospital for the treatment of ongoing medical conditions.

- 6.4.5 Whether these factors, taken together, are sufficient to override established Green Belt policy is a matter of judgement for Members. Staff are of the view that whilst there would be no case for a permanent permission based upon the individual circumstances of the site occupiers, there is a case for granting a further temporary permission of say, three years, in line with decisions taken on other traveller sites within the Borough. Granting a further temporary permission would take account of the emerging policy position and allow for the adoption of the Development Planning Document, This approach is considered to be consistent with other decisions taken for gypsy and traveller sites.

7. Conclusions:

- 7.1 The proposed development is unacceptable in principle in the Green Belt and the development would only be acceptable if there are very special circumstances such as to outweigh this objection. Staff consider that the particular circumstances of the applicant do not amount to the very special circumstances necessary for an exception to Green Belt policy as set out in PPG2 and policy DC46. Previous decisions in respect of nearby sites have, however, recognised that in the absence of any designated sites within the Borough and pending the adoption of the Development Plan Document there is a case for granting temporary planning permission. Staff, therefore, consider that taking all circumstances into account that it would be appropriate to grant a further temporary permission for three years. This would give time for the site to be assessed as a permanent site as part of the Development Plan Document preparation and for the occupiers to continue to look for alternative sites. The proposal would otherwise meet the criteria set out in Policy DC8 of the LDF.

IMPLICATIONS AND RISKS

Financial implications and risks:

None.

Legal implications and risks:

None.

Human Resources implications and risks:

None.

Equalities implications and risks:

The Council's planning policies are implemented with regard to Equalities and Diversity.

BACKGROUND PAPERS

Application form, plans and supporting statement received on 2nd March 2011.