

**REGULATORY SERVICES COMMITTEE**  
**15th March 2012**  
**OUTSIDE STATUTORY PERIOD**

<b>APPLICATION NO:</b>	<b>P1687.11</b>	
<b>WARD :</b>	Cranham	<b>Date Received:</b> 8th November 2011
<b>ADDRESS:</b>	Laburnham Stables Laburnham Gardens, Cranham	
<b>PROPOSAL:</b>	Retention of 2no. mobile homes currently on site. Adjacent existing mobile home with permanent consent	
<b>DRAWING NO(S):</b>	2011/11/03; -11/04	
<b>RECOMMENDATION :</b>	It is recommended that <b>planning permission be GRANTED</b> subject to conditions given at the end of the report.	

### **SITE DESCRIPTION**

The application site is located at the eastern end of Laburnham Stables. The site is 15m wide and 37m long and comprises two mobile homes (one with external decking/stairs and an area of hardsurfacing to the front), two caravans and a timber shed. These are all provided on hardstanding along the western boundary. The owner of the site also owns another mobile home and a stable block located north of the application site together with a substantial area of open fields. The site is in the Metropolitan Green Belt, within a Site of Borough Importance for Nature Conservation and part of the Thames Chase Community Forest.

To the West/North-West of the site is mainly residential development including Laburnham Gardens of single and two-storey, mainly detached or semi-detached properties. The site is located in otherwise open countryside.

### **DESCRIPTION OF PROPOSAL**

The proposal follows two temporary approvals for the application site to retain the use of the land as a caravan site for a Gypsy family and for the retention of two of the three existing mobile homes. (The other, occupied by the applicant and his wife, is the subject of a permanent, personal planning permission). The current application is for the permanent retention of the two mobile homes with decking/external stairs and a hardstanding amenity area.

A statement of special circumstances has been submitted in support of the application. In summary, this raises the following issues:

- the applicant is a Gypsy. He travels to horse fairs and trade shows in connecting with the horse stabling business at Laburnham Stables/The Moorhens
- One person in each of the proposed mobile homes is a child of the applicant and they are eligible to become a member of the Romany Guild
- the sons are full time workers in the running of Laburnham and The Moorhens which stable upto 40 horses. One son is a Farrier and the other manages the stables on a day-to-day basis, particularly in Mr Tibbs Snr's absence.
- The grand-children of the applicants attend school locally and therefore require a settled lifestyle so their education does not suffer
- There is a lack of any official gypsy/travellers sites within the Borough
- it is understood that further legislation by central government is expected in early 2012 and that a relaxation of "green belt" rules and policies in certain well defined cases will apply to the specific needs of gypsies and travellers
- there is now a policy in place which previously prevented the Council from granting permanent

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consent

- if a temporary consent is granted it would reduce the peace of mind and security of the occupiers and result in additional costs and work involved in applying for consent again and again
- temporary consents are not recommended to be granted again and again
- a precedence exists for permanent consent in similar circumstances, for example at Poultry Farm in Tomkyns Lane
- the mobile homes have been at the application site for the last 6 years with no complaints from neighbours
- the mobile homes are well screened from the adjoining residential area

### **RELEVANT HISTORY**

ES/HOR/318/56 residential refused  
L/HAV/1575/78 outline for 3 detached chalet bungalows refused  
209/81 Ten detached houses outline refused  
P2301.88 Residential development comprising 2 storey houses and elderly persons units refused  
P0344.90 Replacement stables/tack room and store  
P1301.95 Stockmans bungalow refused  
P1117.96 one mobile home, 1 touring caravan, hardstanding and fence refused; subsequent appeal dismissed 19th March 1997  
ENF AP1973 - Appeal against Enforcement Notice to remove caravan, mobile home and hardstanding - granted temporary consent on 16th November 1998 for 3 years  
P1733.01 relaxation of condition (3 year ltd period) of previously allowed appeal to permanent siting of mobile home and hardstanding for touring caravan - approved subject to personal and relative-limited conditions  
P0593.03 stationing of two mobile homes - refused; subsequent appeal granted 26/2/04 for 3 years until 26/2/07

The applicants ownership extends northwards and includes both Laburnham Stables and The Moorhens (also a horse-stabling facility) such that recent planning history at The Moorhens is also included here:

### **CONSULTATIONS/REPRESENTATIONS**

The application has been advertised on site and in the local press as a departure from Green Belt policies. Neighbour notification letters have also been sent to 8 adjoining and nearby properties. There have been no replies.

Councillor Georgina Galpin has written to object to the proposal on the grounds that the site is within the green belt and that it should be protected by green belt policy. The green belt comes under threat if additional mobile homes are allowed on a permanent basis. A temporary grant of permission with the same conditions as the previous approval would be acceptable in order to provide some protection to the green belt.

### **RELEVANT POLICIES**

Policies DC8, DC45 and DC61 of the Development Control Policies Development Plan Document are relevant.

Policy 7.16 of the London Plan (2011) and the provisions of PPG2 (Green Belt) are also material considerations.

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Articles 1 and 8 of the first Protocol of the European Court of Human Rights are also relevant.

In addition to the above, Circular 1/06 'Planning for Gypsy and Traveller Caravan Sites' is material in the determination of this application. The main intentions of the current Circular are:

- \* To create and support sustainable, respectful and inclusive communities;
- \* To reduce the number of unauthorised encampments and developments and to make enforcement more effective;
- \* To increase significantly the number of Gypsy and Traveller sites in appropriate locations with planning permission in order to address under-provision over the next 3-5 years;
- \* To recognise, protect and facilitate the traditional travelling way of life of Gypsies and Travellers, whilst respecting the interests of the settled community;
- \* To underline the importance of assessing accommodation needs at all levels;
- \* To identify and make provision for the resultant land and accommodation requirements;
- \* To ensure Development Plan Documents include fair, realistic and inclusive policies and to ensure identified need is dealt with fairly and effectively;
- \* 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 without an alternative to move to.

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 (RPB) to assist in the production of the Regional Spatial Strategy (RSS). The RSS 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 (DPD) on Gypsy and Traveller Site Provision, as part of its Local Development Framework (LDF).

The Circular advises that Local Planning Authorities must have regard to the findings of any associated DPD 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. Where a formal, up-to-date accommodation assessment has yet to be undertaken, the Circular notes that other sources of information can be used to evaluate need.

The Circular provides guidance on the transitional arrangements in advance of consideration of required accommodation by the RPB. In this circumstance, particularly where there is a clear and immediate need for Gypsy and Traveller site provision (evidenced, for example, through the presence of significant numbers of unauthorised encampments or developments in a Borough/District), the Circular advises that Local Planning Authorities should bring forward its site allocation DPD either in parallel with, or in advance of the Core Strategy.

The Core Strategy Development Plan Document gives a commitment to the production of a DPD on Gypsy and Traveller site provision.

The draft PPS which would replace Circular 1/06 on Planning for Traveller Sites (consulted on between 13/4/11 and 3/8/11) is imminently due to be published. It covers (prior to the NPPF being finalised when the policies will be fed into that document) gypsies, travellers and travelling showpeople. It indicates at para 2.5 that 'Gypsies and Travellers are recognised as having a protected characteristic under the Equality Act 2010. Case law has also established that the

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Government has a duty to 'facilitate the gypsy way of life' for ethnic Gypsies and Travellers under the Human Rights Act.'

The draft PPS indicates at Policy E: traveller sites in green belt

"There is a general presumption against inappropriate development within Green Belts. Traveller sites in the Green Belt are inappropriate development, within the meaning of Planning Policy Guidance 2: Green Belts."

also, that when finalised, transitional arrangements will be in place as follows -

"This planning policy statement comes into effect immediately. From [the date six months after date policy comes into effect], if a local planning authority cannot demonstrate an up-to-date five year supply of deliverable sites, it should consider favourably applications for the grant of a temporary planning permission."

The Council's draft DPD on Gypsies and Travellers was considered at the Council's Cabinet meeting on 18th January 2012. The DPD indicates that sites with temporary planning permission, such as the application site, should be made permanent to meet the demand for gypsy/traveller sites in the Borough. The Gypsy and Traveller Sites DPD should be going out for consultation in mid-late March for 7 weeks (to allow for Easter). Depending on the responses a formal submission is expected in Summer 2012. It is currently expected that the Planning Inspectorate would look to hold the Examination in Public in Autumn with the DPD adoption around the end of 2012/early 2013. Following adoption, any pitches/sites coming forward not within the identified pitches would need to meet the criteria. Since the criteria is subject to change though the consultation and examination stages, they are not of themselves a material consideration at this time. It is expected that adoption would be about a year away.

## **STAFF COMMENTS**

The issues arising from this application are whether the development is acceptable in principle and, if not, whether there are very special circumstances sufficient to justify the development; the impact on the character and openness of the Green Belt, the impact on local amenity, parking and highway issues.

## **BACKGROUND**

In 2004 and again in 2008, temporary three-year planning permissions were granted (the first on appeal) for the continued residential occupation of the site. In granting permission, the Inspector at the appeal concluded:

'Since permission was granted for the Tibbs's own mobile home, three grandchildren have been born, increasing the number of residents living at the appeal site to eleven. As a result, the accommodation on the appeal site has undoubtedly become severely overcrowded. This is an unsatisfactory situation, which would well deteriorate if the appellant's family continues to grow. In my view, it is not in the public interest that people should live in such conditions.

I have considered whether the problem would be resolved by the appellant's adult children and their families finding accommodation elsewhere. I accept that this may be difficult, particularly since it would be unreasonable to expect members of a gypsy family to live in a house, The Council are unable to point to any specific location that would be suitable for a new gypsy site. Nor does their interim planning guidance seem to have led to the establishment of any new authorised gypsy facilities. The latest evidence available to me is that, at the beginning of 2003, there are 34 gypsy caravans in Havering of which only 11 were on authorised site. The Council are about to make a fresh assessment of the need for gypsy accommodation, but there is no

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certainty that this will ease the present problem.

I accept that the ties between members of an extended family are particularly important part of gypsy culture. As the appellant's son Edward works with this father in the horse dealing business, he would require accommodation within a reasonable distance of the site.

The evidence is that the capital cost of acquiring an authorised gypsy caravan site can exceed £65,000; and that, even if a suitable site could be found in this area, such a sum would be beyond the means of the appellant's adult children. The alternative would be for them to make use of unauthorised sites.

I note that the number of gypsy caravans on unauthorised sites nationally is growing and now exceeds 3,000. The sites are often in dangerous locations, and may well lack a water supply, proper sanitation and waste disposal facilities. The occupants of such sites are frequently forced to move from one place to another. This adversely affects the education of gypsy children; it deprives families of regular health care; and it reduces the employment prospects of adults. A proliferation of travellers living on unauthorised sites serves neither the interests of the gypsies themselves, nor those of the wider community.

In my view, the acute overcrowding of the appellant's existing accommodation and the lack of an obvious alternative solution amount to a very special circumstance that tells in favour of permitting the proposed development. In reaching this conclusion, I have had regard to the fact that the appeal site is already a lawful and permanent gypsy site; and to the fact that the proposed mobile homes would be relatively secluded, and would not be conspicuous in the view from any public vantage point. I have also had regard to the generally tidy condition in which the appeal site has been maintained.

The position may change after the traveller needs assessment is produced. It would therefore be wrong in my view to grant a permanent position when this site may not form part of the consultation and final list of the Gypsy/Traveller Site Allocation DPD. Circular 11/95 indicates that a second temporary permission should not normally be granted. However, in this case, the primary reason for the previous Inspector's decision [on the Tibbs own mobile home] was to allow the situation to be reviewed in light of the Council's decisions regarding the provision of a site for travellers. As this has not been meaningfully progressed, I consider that a further temporary period is warranted."

Staff recognise that that this is the 3rd time the applicant has applied for permission for the two mobile homes sited at the application site.

### **PRINCIPLE OF DEVELOPMENT**

PPG 2 sets out in full those developments deemed to be appropriate within the Metropolitan Green Belt. Policy DC45 reasserts the content of PPG 2 in this regard. The proposed retention and occupation of the mobile homes and touring caravan does not fall within the categories of development considered appropriate in the green belt and the proposal would therefore result in development which by reason of its inappropriateness results in principle harm to the Green Belt concept, aims and objectives. Very special circumstances are therefore required. Such circumstances will only exist where the inappropriateness, together with any other harm (such as visual impact), are clearly outweighed by other considerations.

The draft NPPF refers to PPG2 indicating that the stationing of gypsy caravans in the green belt

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is inappropriate development and that, in line with PPG2, a very special circumstances case must be made which outweighs the harm identified.

Prior to appraising the very special circumstances case therefore, an examination of the proposal's impact upon the character, appearance and openness of the Green Belt is needed, together with consideration of the impact upon residential amenity and the highway.

### **GREEN BELT IMPLICATIONS**

As identified above, in considering the appeal for the continued use of the land for residential purposes, the Inspector considered that the 2 mobile homes would be sited on open grassland at the edge of the built-up area of Upminster and that they would detract from the open character of the green belt and contribute to the outward spread of the urban area. Little has changed visually on the site since 2004 and it is considered that the level of harm arising remains the same as that previously identified.

### **DESIGN/IMPACT ON STREET/GARDEN SCENE**

There are no other impacts arising to the streetscene or amenity over and above those already identified.

### **IMPACT ON AMENITY**

There are no other impacts arising to the streetscene or amenity over and above those already identified.

### **HIGHWAY/PARKING**

It is not considered that the proposal gives rise to any material parking or highway issues.

### **OTHER ISSUES**

The Case for Very Special Circumstances:

Save that everyone involved has aged by 7/8 years, there is no identifiable change in the very special circumstances identified by the Planning Inspector in 2004.

Staff consider that the arguments put forward in support of the case for very special circumstances are materially similar to those considered by the Inspector under the 2004 appeal and which, in the Inspector's view, constituted, in aggregate, material considerations which would clearly outweigh the totality of harm. It is therefore considered that the case put forward, combined with the marginal impacts of the development on the openness of the Green Belt, would be sufficient to amount to the very special circumstances sufficient to justify the proposal.

However, in granting a temporary planning permission for three years, the Inspector did so principally to enable the Council to progress its review on gypsy and traveller accommodation needs. As detailed above, the production of a Development Plan Document on Gypsy and Traveller site provision, while just about to be issued for consultation purposes, is not likely to be finally adopted for about a year. It may also have changes at least to a degree from that approved for consultation purposes such that while it indicates that Laburnham Stables is within the list of sites to be kept, this may change and the draft DPD is not sufficiently advanced at this stage to consider a permanent approval. The draft DPD does indicate that in a year or so, the site may be a permanent site and it is appropriate therefore that a temporary grant of permission is given pending the adoption of the DPD.

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At the time the draft NPPF was issued for consultation there was also a consultation draft of the Gypsy and Traveller PPS issued by Central Government. Whilst both have been consulted on at this stage they have not progressed to adoption. A temporary period would enable this new Framework and/or PPS to be adopted such that their provisions can be taken into account at the end of that period.

It is considered that a temporary permission for a period of two years, personal to the applicants, would be reasonable covering the interim period between now and the adoption/implementation of measures that will be identified in the DPD.

### **KEY ISSUES/CONCLUSIONS**

The main issues in this case are the principle of the development and its impact upon the character, appearance and openness of the Green Belt at this point. The proposed retention of the mobile homes constitutes inappropriate development. It is considered that they are prejudicial to the openness of the Green Belt. It is considered that very special circumstances have been put forward by the applicant which would justify an exception from established policy.

However, the DPD is currently at a relatively early stage and it is considered that a temporary permission only would be appropriate pending the future adoption of the Gypsy and Traveller DPD.

### **RECOMMENDATION**

It is recommended that **planning permission be GRANTED** subject to conditions

**1. M SC16 (Temporary permission) INSERT DATE**

This permission shall be for a limited period only expiring on 16th March 2014 on or before which date the use hereby permitted shall be discontinued, the 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 enable the proposal to be considered in the light of identification of sites in the forthcoming Gypsy and Traveller Caravan Sites Development Plan Document and in accordance with Policies CP2 and DC8 of the LDF Core Strategy and Development Control Policies Development Plan Documents.

**2. M SC21 (Personal permission)**

The permission hereby granted shall be personal to Mrs C Tibbs and Mr Edward Tibbs and his wife, Laura and their children Edward, Lauren and Charles and Mrs Christina Imray (nee Tibbs) and her husband, Daniel and their children Daniel and James and any child born to these parents within the two year temporary period identified in Condition 1 above and shall not enure for the benefit of the land or any other person.

Reason: To ensure that should the site no longer be used that it would not automatically become available for any other form of residential development in the Metropolitan Green Belt in accordance with Policy DC45 of the Local Development Framework Development Control Policies Development Plan Document.

**3. S SC32 (Accordance with plans)**

**4. Non standard condition**

Each of the mobile homes referred to in this permission shall be removed from the site

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if they cease to be occupied by Mr Edward Tibbs, his wife, Laura and children Edward, Lauren and Charles and/or Mrs Christina Imray (nee Tibbs), her husband Daniel and children Daniel and James and any other child born to these parents, or at the end of 2 years from the date of this decision (whichever occurs first).

Reason: In the interests of the amenity of adjoining residential occupiers and the openness of the Metropolitan Green Belt in accordance with Policies DC61 and DC45 of the Local Development Framework Development Control Policies Development Plan Document.

**5. Non standard condition**

Unless the local planning authority agree otherwise in writing, the mobile homes referred to in this permission shall be sited as shown in the application plan and shall not exceed 6m wide and 14.5m long.

Reason: To protect the open character of the Metropolitan Green Belt in accordance with Policy DC45 of the Local Development Framework Development Control Policies Development Plan Document.

**1 INFORMATIVE:**

Reason for approval:

The proposed development is considered to be in accordance with the aims, objectives and provisions of Policies CP2, DC8, DC45 and DC61 of the LDF Core Strategy and Development Control Policies Development Plan Documents and PPG2: Green Belts in that very special circumstances to justify development have been provided.

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