



**Rochford District
Council**

DEVELOPMENT COMMITTEE

24th August 2023

APPLICATION NO.	23/00497/FUL
ADDRESS	Land West Side Junction of Magnolia Road and Lincoln Road, Rochford
APPLICATION DETAILS	The mixed use of the keeping of horses and of stationing of caravans for residential use and laying of hardstanding and erection of dayroom ancillary to that use
APPLICANT	Mr Stephen Kerry
ZONING	Metropolitan Green Belt (MGB)
PARISH	Hawkwell Parish Council
WARD	Hawkwell West

REPORT SUMMARY

Planning permission is sought for the change of use of land for the stationing of caravans for residential purposes and the keeping of horses. It is considered that the application presents very special circumstances which outweigh the harm to the Green Belt. The application has been found compliant with all other material considerations and is subsequently recommended for approval.

RECOMMENDATIONS

It is proposed that the Committee **RESOLVES**

That planning permission be approved subject to the following conditions:

- (1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- (2) The use hereby permitted shall be carried out only by Mr Stephen Kerry, Ms Eilean Connors, Mr James Gaskin and Mrs Shantel Gaskin and their resident dependants. When the land ceases to be occupied by Mr Stephen Kerry, Ms Eilean Connors, Mr James Gaskin and Mrs Shantel Gaskin, the use hereby

permitted shall cease and all caravans, structures, materials and equipment brought on to or erected on the land, and/or works undertaken to it in connection with the use, shall be removed and the land shall be restored to its condition before the development took place.

REASON: Due to the personal circumstances of the applicant being considered to outweigh the harm to the green belt.

- (3) The development hereby permitted shall be carried out in complete accordance with the following approved plans: 001 REV P02; 002 REV P01; 003 REV P01; 005 REV P01.

REASON: For the avoidance of doubt and to ensure that the development is completed out in accordance with the details considered as part of the planning application.

- (4) No more than four 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, comprising no more than two static caravans and two touring caravans.

REASON: To ensure that the development on the site is in accordance with the details considered within the application.

- (5) Notwithstanding the 'indicative' drawing title, the dayrooms shall be constructed in complete accordance with the details shown in drawing No. 005 REV P01.

REASON: To ensure that the development is completed in accordance with the details considered as part of the planning application.

- (6) The approved dayrooms (indicated in drawing no. 005 REV P01) shall be used solely as ancillary to the residential use of the site. The dayrooms shall not at any time be used for independent living accommodation.

REASON: To enable the Local Planning Authority to retain adequate control over the development hereby permitted and that the development serves an ancillary use only, in the interests of the green belt very special circumstances which have found the development acceptable.

- (7) No more than one horse shall be kept on the site for the purpose of grazing at any time.

REASON: To ensure the development reasonably complies with the British Horse Society requirements for the scale of grazing per horse.

- (8) Prior to the installation of the front access gate (as proposed by drawing No. 003 REV P01) and any other fencing, gates, walls or other means of enclosure, their appearance (including height, material and colour) shall be

submitted to and agreed in writing by the local planning authority. The front access gate (along with any other agreed means of enclosure) shall be installed in complete accordance with those details agreed and maintained in perpetuity, unless otherwise agreed in writing by the local planning authority. Notwithstanding the provisions of Article 3, Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 1995 (as amended) (including any Order revoking or re-enacting that Order, with or without modification) no gates, fences, walls or other means of enclosure shall be erected without the written agreement of the local planning authority.

REASON: In the interest of the visual amenity of the character of the area, preserving the openness of the green belt and to prevent the site becoming isolated from the rest of the community, in compliance with the requirements of the National Planning Policy Framework and National Planning Policy for Traveller Sites.

- (9) The existing trees and hedgerow within the application site depicted between the points A to D on the approved drawing No. 002 REV P01, shall be retained and shall not be removed or otherwise reduced in height, without the prior written agreement of the local planning authority. Any tree or shrub removed, uprooted, destroyed, or be caused to die, or become seriously damaged or defective within the lifetime of the development, shall be replaced by the applicant(s), with species of the same type, size and in the same location as those removed, in the first available planting season following removal.

REASON: To enable the local planning authority to secure the retention of the landscaping on site in the interests of the visual amenity of the street scene and the setting of the listed building.

- (10) Prior to first use of the site for residential purposes, details of the lighting to be used on site (including brightness and orientation) shall be submitted to and agreed in writing by the local planning authority. The lighting installed on site shall be in accordance with those details agreed. No floodlights or other means of artificially illuminating any part of the site (other than those agreed) shall be installed and/or operated, whether or not in association with the use of the site hereby permitted, without the written prior approval of the Local Planning Authority.

REASON: To enable the Local Planning Authority to retain adequate control over such means of illumination, in the interests of the green belt and residential amenity.

- (11) Prior to the commencement of any preliminary groundworks, an Arboricultural Impact Assessment including a method statement and tree protection plan (in accordance with BS 5837 2012) for those trees within and adjacent to the site, shall have been submitted to and agreed in writing by the local planning authority. The development shall be carried out in complete accordance with

those details agreed. The tree protection measures shall be retained until all building materials have been cleared from the site.

REASON: To ensure that the development does not impact upon the trees within or adjacent to the site, in accordance with Policy DM25 of the Development Management Plan.

- (12) Prior to the planting of the trees and hedge as depicted on drawing No. 003 REV P01, details of the species, spacing and planting method of these trees and hedge shall be submitted to and agreed in writing by the local planning authority. Those details as may be agreed shall be implemented in their entirety during the first planting season (October to March inclusive) following commencement of the development, or in any other such phased arrangement as may be agreed in writing by the Local Planning Authority. Any tree, shrub or hedge plant (including replacement plants) removed, uprooted, destroyed, or be caused to die, or become seriously damaged or defective, within five years of planting, shall be replaced by the applicant(s) or their successors in title, with species of the same type, size and in the same location as those removed, in the first available planting season following removal.

REASON: To enable the Local Planning Authority to retain adequate control over the landscaping of the site, in the interests of visual amenity.

- (13) Prior to the caravans being brought onto site, details of the foul drainage system to serve the development hereby approved and a foul drainage maintenance plan shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with such details as may be agreed by the Local Planning Authority and maintained in the approved form thereafter.

REASON: To ensure that the foul drainage of the development is sufficiently disposed of on the site and will avoid contamination of any nearby water course.

- (14) No works except clearing, shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented prior to occupation and thereafter maintained.

REASON: To prevent surface water flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

- (15) Prior to commencement of the development hereby approved, an updated ecological survey completed by a chartered ecologist re-confirming the presence/likely absence status of badgers on site, shall have been submitted to and agreed in writing by the local planning authority. The development

shall be carried out in accordance with the findings and recommendations of the updated ecological survey.

REASON: To ensure the development complies with the submitted Ecological Appraisal and would not cause harm to a protected species or its habitat, in accordance with Policy DM27 of the Development Management Plan.

- (16) The development shall implement the precautionary site clearance measures in relation to amphibians and reptiles described in paragraph 6.10 of the Ecological Appraisal prepared by Allied Ecology (dated May 2023). If during site clearance, Great Crested Newt is identified, all site works shall cease and consideration by a chartered ecologist given to obtaining a Natural England mitigation licence, the findings and recommendations of which shall be submitted to and agreed in writing by the local planning authority prior to re-commencement in complete accordance with those details agreed.

REASON: To ensure the development complies with the submitted Ecological Appraisal and would not cause harm to a protected species or its habitat, in accordance with Policy DM27 of the Development Management Plan.

- (17) No vegetation clearance shall take place during bird nesting season (March to August inclusive). Where this is not practicable, any habitats capable of supporting nesting birds (as identified by the submitted Ecological Appraisal prepared by Allied Ecology and dated May 2023) shall only be subject to works following a Nesting Bird Survey prepared by a chartered ecologist that has been submitted to and agreed in writing by the local planning authority. The development shall be carried out in accordance with the findings of the survey. The survey shall establish whether any active bird nests are present and instate an appropriate buffer to the proposed works. Such a buffer should remain in place until the chicks have fledged and the nest becomes inactive.

REASON: To ensure the development complies with the submitted Ecological Appraisal and would not cause harm to a protected species or its habitat, in accordance with Policy DM27 of the Development Management Plan.

- (18) The construction of the approved development shall safeguard faunal species by following the measures recommended at paragraph 6.9 of the submitted Ecological Appraisal prepared by Allied Ecology and dated May 2023. If during construction, any protected species are encountered or discovered, all works will cease immediately and a chartered ecologist will be contacted for further advice. The findings of the chartered ecologist, along with any required mitigation or safeguarding measures, shall be submitted to and agreed in writing by the local planning authority prior to re-commencement in accordance with any details as may be agreed.

REASON: To ensure the development complies with the submitted Ecological Appraisal and would not cause harm to a protected species or its habitat, in accordance with Policy DM27 of the Development Management Plan.

- (19) Prior to first occupation of the development hereby approved, a landscaping plan depicting the following biodiversity enhancements shall be submitted to and agreed in writing by the local planning authority:
- 1no. bat box incorporated into the fabric of one of the dayrooms;
 - 1no. bird box incorporated into the fabric of one of the dayrooms;
 - Native hedge planting including (but not limited to) a range of early and late flowering/fruited species such as blackthorn, hawthorn, silver birch *Betula pendula*, Aspen *Populus tremula*, Beech *Fagus sylvatica*, Oak *Quercus* species, Wild Cherry *Prunus avium*, Hornbeam *Carpinus betulus*, Rowan *Sorbus aucuparia*, Hazel *Corylus avellana* and Wayfaring-tree *Viburnum lantana*;
 - 13cm x 13cm cut-outs at the base of proposed boundary features;
 - Grazing friendly wildflower grassland areas.

The biodiversity enhancement as may be agreed by the local planning authority, shall be installed on site within a timeframe as informed by an ecologist which shall be agreed in writing by the local planning authority.

REASON: To ensure biodiversity and ecological enhancements are delivered by the scheme to ensure the development complies with the submitted Ecological Appraisal and in accordance with Policy DM27 of the Development Management Plan.

REASONS FOR RECOMMENDATION

The proposed development has been assessed in relation to relevant material planning considerations. It is considered that the proposal would be acceptable and compliant with the Development Plan and relevant national planning policy.

SUPPORT ING INFORMATION

1.0 PLANNING APPLICATION DETAILS

DRAWING NOS.	001 REV P02 002 REV P01 003 REV P01 005 REV P01
SUBMITTED DOCUMENTS	Planning Statement Personal Circumstances (P&C) Ecological Appraisal

- 1.1 Planning permission is sought for the change of use of land for the stationing of two pitches to be used by two Romany Gypsy families. Each pitch would include 1No. mobile home, 1No. touring caravan and 1No. dayroom. The pitches have been shown to run parallel with the eastern boundary in the northern corner of the site. The site would be accessed through an existing vehicular access point on Lincoln Road.
- 1.2 The description of development also includes the change of use of land for the keeping of horses. The horses would be kept in paddocks to the western edge of the site which is shown on drawing no. 003 REV P01 as being depicted by post and rail fencing.

2.0 MATERIAL PLANNING CONSIDERATIONS

Site and Context

- 2.1 The application site is located on the corner of Magnolia Road with Lincoln Road. Both of these streets are unmade private roads which are occupied by a collection of residential and commercial properties that are located sporadically along the streets. The application site and its surroundings are located within the Metropolitan Green Belt and this is reflected by the rural character of narrow tracks and modest dwellings within large plots. The commercial uses are also associated with those often established within rural areas due to the space they require; a cattery and scout hut are amongst those present along Magnolia Road.
- 2.2 The application site is formed of a triangular shaped parcel of land which is stated on the application form to be currently used for the keeping of horses. There is no planning history relating to the site and therefore it is not clear in what capacity this exists. During a site visit in July 2023 it was clear that horses were being kept on the land for the purpose of grazing. There is an existing building on the site that may have once formed a stable. Whilst no planning history has been obtained for this building, it would be lawful through passage of time. However, it is in a dilapidated state and would no longer be fit for purpose.

- 2.3 The site itself measures some 0.8ha in scale. It is currently enclosed by established hedgerows on its eastern and southern boundaries. The northern boundary adjacent to Doric Lodge has a less established boundary treatment towards its western end. The site is also adjoined by Wayside Lodge to the west and is opposite to The Glen (or 'Shalynn' the Friendly Cattery) which is on the eastern side of Lincoln Road. The railway line runs on the opposite side of the road to the southern boundary.

Gypsy and Traveller Status

- 2.4 The ethnicity and the personal circumstances of an applicant would not normally be a material consideration in the consideration of a planning application as they would not ordinarily be accorded any significant weight compared to local development plan and national policy considerations. It is, however, recognised that the needs of those who can substantiate Gypsy and Traveller status for planning purposes do call for special consideration and are a material consideration in planning decisions. The Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community, as clearly highlighted by the production of the National Planning Policy for Traveller Sites (NPPTS).
- 2.5 The NPPTS defines "gypsies and travellers" as:
- "Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such."
- 2.6 The NPPTS further sets out that when determining whether persons are "gypsies and travellers" for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:
- a. Whether they previously led a nomadic habit of life;
 - b. The reasons for ceasing their nomadic habit of life;
 - c. Whether there is intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.
- 2.7 However, the Court of Appeal (Smith v Secretary of State for Levelling Up, Housing & Communities & Anor, 2022) has recently (November 2022) held that the Government's definition of gypsies and travellers within the NPPTS is unlawfully discriminatory. This is because (amongst other reasons) Romany Gypsies are members of an ethnic group, the defining feature of which was not being nomadic but "the act of living in caravans". It was apparent from the Public Sector Equality Duty analysis of this definition that the equality objectives set out at s149(1) of the Equality Act 2010 were not met, with The Court concluding that the exclusion of this definition by the Government was to reduce the number of gypsies and travellers who can obtain permanent or temporary planning permission.
- 2.8 The occupants of the site are stated as being Romany Gypsies and participate in cultural activities such as living in caravans and participating in gypsy and traveller

fairs such as Appleby. An appendix provided to the private and confidential supporting information also includes a needs assessment made by a Roma Gypsy Liaison Officer in relation to one of the children who would reside on the site. Based on a lack of evidence to the contrary, the intended occupants of the site are considered to have gypsy and traveller status.

Green Belt – Change of Use of Land for Residential Purposes

- 2.9 Section 13 – Protecting Green Belt land of the National Planning Policy Framework (NPPF) states that great importance is attached to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and permanence. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. The construction of new buildings in the Green Belt should be regarded as inappropriate except for in a limited number of circumstances. Development that does not fall to be considered under one of these categories will be considered inappropriate development and is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 2.10 Policy GB1 of the Council's Core Strategy (2011) seeks to protect Green Belt land by directing development away from Green Belt land so far as is practicable.
- 2.11 The National Planning Policy for Traveller Sites (NPPTS) (August 2015) document, which sits alongside the NPPF, considers Traveller sites (temporary or permanent) in the Green Belt to be inappropriate development. In addition, the document states that subject to the best interests of the child, personal circumstances and unmet need are unlikely to outweigh the harm to the Green Belt so as to establish very special circumstances.
- 2.12 The proposed development is therefore considered to be inappropriate development within the Green Belt which is harmful by definition. As discussed above, the harm of inappropriate development, together with any other harm identified must be clearly outweighed by very special circumstances. This section of the report will assess whether the proposed development would result in any other harm to the Green Belt before moving onto assessing the very special circumstances of the application.

Other Harm – Impact on Character and Openness of the Green Belt

- 2.13 The application site is within a prominent location along Magnolia Road given that it is on the corner of two access tracks. The internal site is shielded largely by views from the public realm by existing mature hedgerows. It is considered that these factors would go some way in mitigating the potential adverse impact of the proposal on the character and visual openness of the Green Belt.
- 2.14 Nonetheless, the proposal would involve the introduction of two permanent mobile homes, dayrooms and the various paraphernalia associated with the proposed

residential use. The proposal for residential development within the Green Belt would constitute urban sprawl within the Green Belt, contrary to Policy GB1 and the NPPF. The proposal would be considered to have a spatial impact upon openness, as well as a visual impact from some viewpoints, therefore contrary to the aims and purposes of allocating land within the Green Belt, amounting to other harm.

Very Special Circumstances

- 2.15 The NPPTS requires that when making planning decisions on such planning applications the following criteria are taken into account:
- a. The existing level of local provision and need for sites;
 - b. The availability (or lack) of alternative accommodation for the applicants;
 - c. Other personal circumstances of the applicant;
 - d. That the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites;
 - e. That they should determine applications for sites from any Travellers and not just those with local connections.
- 2.16 The following sections will consider the application against each of the criteria listed above to assess whether the applicants are able to demonstrate very special circumstances. As noted already, the NPPTS sets out that demonstrating only one of these very special circumstances is unlikely to outweigh the harm of inappropriate development.

The existing level of local provision and need for sites

- 2.17 Policy B of the NPPTS requires local planning authorities, in preparing Local Plans, to set targets which address the likely permanent and transit site accommodation needs of Gypsies and Travellers in their area. Local planning authorities are encouraged to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of sites against their locally set targets whilst, amongst other things, protecting local amenity and the environment.
- 2.18 The NPPTS states that if local planning authorities cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of planning permission. The exception is where the proposal is on land designed as Green Belt; sites protected under the Birds and Habitats Directives and/or sites designated as Sites of Special Scientific Interest; Local Green Space; an Area of Outstanding Natural Beauty, or within a National Park. However, an appeal relating to a proposed gypsy and traveller site at the Pumping Station, Watery Lane (application reference: 16/00558/COU Appeal reference : APP/B1550/C/16/3162651) was allowed in 2017 as well as an appeal relating to a gypsy and traveller site at Land adjacent to Woodville, Hullbridge Road (application: 15/00448/FUL appeal reference:

APP/B1550/W/17/3174424) in 2018, in which the Inspector stated that as the vast majority of the district is designated Green Belt (tightly drawn to existing settlements) any potential Traveller site would have to be on land that is currently designated Green Belt, meaning that the application site being on Green Belt land does not necessarily mean that the application should be refused on this basis, as any other future Traveller site for the Rochford District would also have to be on land that is currently Green Belt.

2.19 Policy H7 of the Council's Core Strategy seeks to allocate 15 pitches by 2018 and indicates these are to be provided by 2018. This commitment is reflected through an allocation of a site at Michelin's Farm (Reference Policy GT1) in the Council's Allocations Plan. However, the possible development of this site has encountered various difficulties, including contamination, issues of land ownership and highway access. Development has yet to commence, neither has the Council exercised its power to compulsory purchase the site and despite pre-application enquiries no application for planning permission has been submitted or granted. There are no other known alternative sites available for development. There are no other allocated sites in the district, and no public sites available for occupation.

2.20 In referring to the need for sites in the district, the Planning Inspector for the appeal (reference: APP/B1550/C/16/3162651) in relation to the traveller site at the Pumping Station, Watery Lane Rawreth, stated the following in regard to the lack of Traveller site provision in the district:-

“Delay in delivery of [policy] GT1 means that currently no provision of pitches is being realised through the development plan process. The only way at the moment (and for the last 6 years following the adoption of a 15 pitch requirement) is in response to a planning application. Given the existing situation, the Council accepted at the hearing that it did not have a 5 year supply of specific deliverable sites as required by paragraph 10 of the PPTS. Neither does it have a supply of sites or broad locations for growth for years 6 to 10 also required by that same paragraph. Given the extent of Green Belt in the District, ad hoc sites coming forward are more likely than not going to be within it.”

2.21 More recently, the Inspector for the appeal at Land Opposite 2 Goldsmith Drive (implementation of reference: 17/01240/FUL appeal reference: APP/B1550/C/18/3212763) made the following observations in relation the supply of Gypsy and Traveller sites:-

“[40.] The Council witness confirmed that although he had recently learned that there was potential for the Michelins Farm site to be the subject of a compulsory purchase order, there was no certainty that the site would move forward. He explained that options were going to be considered, potentially in September 2021, for addressing the supply of sites, and that this has been hampered by other factors including staff availability in the Council's planning policy team. In summary while the Michelins Farm site, which is the only allocated site, has not been ruled out by the Council, there is no certainty that it will deliver the necessary supply of sites and there are no other options currently available.

[41.] The Council officer also confirmed that the Council has no criteria based policy which would address ‘windfall’ sites, neither had it had such a policy for several years. Taken together with the significant and as yet unresolved delay in bringing forward the Michelins Farm site, this amounts not only to an absence of supply of sites but also a failure in terms of policy provision. These factors also weigh significantly in favour of the development.”

- 2.22 The Council’s latest formal assessment of the need for additional Gypsy or Traveller pitches is set out in the South Essex Gypsy, Traveller and Travelling Showpeople Accommodation Assessment Update 2019 (GTAA). This assessment identified a need for up to 18 additional pitches for households meeting the gypsy and traveller status, with a further 3 pitches for households where it was unknown whether the definition was met. This updates the previous requirement to Policy H7 of the Core Strategy. The application site was not occupied at the time of this assessment and any need generated by the site would therefore be additional to these figures, albeit it is recognised that some allowance is made for the formation of new households within the assessment.
- 2.23 Sites at Land Adjacent to “St. Theresa” Pudsey Hall Lane (ref: 18/00318/FUL, allowed at appeal 2021), Land Opposite 2 Goldsmith Drive (ref: 17/001240/FUL, appeal allowed 2021), Land North of 172 Rawreth Lane (ref: 21/00146/FUL), Rainbows End, Beeches Road (ref: 21/00673/FUL), Meadow Prospect, Watery Lane (ref: 22/00229/FUL) and Land South of Woodville (ref: 22/01210/FUL) have received planning permission since the GTAA took place. These sites comprise a total of 8 pitches and therefore there remains a current need for at least 10 pitches dedicated to households with gypsy and traveller status.
- 2.24 Taking into account the above, it is clear that there is an absence of a five year supply of sites and this should be given significant weight.

The availability (or lack) of alternative accommodation for the applicant

- 2.25 There are no pitches that have been delivered through the Council’s policy provision and there are no public sites currently available. No other suitable and available sites accessible to the applicant have been identified within the district. At present there are 24 pitches which benefit from planning permission as of July 2023 across the district. Whilst there have been a number of sites granted planning permission recently, within this 24 pitch figure, none of these are available.
- 2.26 The applicant’s personal circumstances document (which is private and confidential) discusses that both families have been residing on other family members’ pitches due to a lack of permanent pitches. Whilst these were not within the district, the NPPTS is clear that an applicant does not need to have local connections. The applicant has made it clear that were permission refused, both families would be forced to travel on the roadside and double up on other friends’ and family members’ pitches who have neither the permission nor the space to accommodate them.

2.27 Further, the Court of Appeal (South Cambridgeshire District Council v the SOS and Julie Brown, 2008) found that it is not for the applicant to establish there are no available alternative sites.

2.28 It is considered that there is a lack of alternative provision and this weighs heavily in favour of the development, attracting significant weight.

Other personal circumstances of the applicant

2.29 The application site would accommodate two families; the families of Mr Stephen Kerry, Ms Eilean Connors and their resident dependants and the family of Mr James Gaskin, Mrs Shantel Gaskin and their resident dependants.

2.30 Mr Kerry and Ms Connors have eight children under the age of 16 who all require a stable education. At present, the children who are of school age have not been able to obtain this due to the lack of a permanent residency. One of the children has learning difficulties and requires attendance at a special education facility which, due to a lack of permanent residency, the family have been unable to obtain at present. This same child also suffers with a health issue. Whilst this does not require the family to be within the district, the applicants have explained that the site would provide the child with more freedom to learn and explore nature within a safe environment.

2.31 Mr and Mrs Gaskin have four children under the age of 10. It is not clear whether the two families are related from the submissions or choose to travel together as part of the same ethnic group. At present, all four of Mr and Mrs Gaskin's children are enrolled in a local primary school and the application site would provide a settled base for the children to continue their education. One of the children has a learning difficulty (another is being screened for this) in which this school is able to cater which adds to the desire by Mr and Mrs Gaskin to keep their children within this school. Further, two of the family members suffer with their mental health and a stable base would reduce the anxiety and stress of having to frequently move. Additionally, one of the children has a health condition which requires visits to a hospital in London and the application site would provide good transport links to London.

2.32 The applicant has also submitted that each family assists with the care of the other's children when required to do so which is a common cultural practice of the Romany Gypsy ethnicity.

2.33 The need to provide a stable residence for educational purposes is understood and supported by paragraph 13 of the NPPTS, although it is appreciated that Mr and Mrs Gaskin are able to provide their children with a stable education at present despite a lack of permanent residency. It is also understood that both families require permanent residency for healthcare purposes, which is supported by paragraph 13 of the NPPTS, irrespective of the specific severity of the healthcare issues identified. These matters also weigh significantly in favour of the development.

Locally specific criteria used to guide the allocation of sites in plans should be used to assess applications that may come forward on unallocated sites

- 2.34 Paragraph 13 of the NPPTS sets out that local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally. Planning decisions should therefore ensure that development for gypsy and traveller sites:
- a) promote peaceful and integrated co-existence between the site and the local community
 - b) promote, in collaboration with commissioners of health services, access to appropriate health services
 - c) ensure that children can attend school on a regular basis
 - d) provide a settled base that reduces both the need for long-distance travelling and possible environmental damage caused by unauthorised encampment
 - e) provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development
 - f) avoid placing undue pressure on local infrastructure and services
 - g) do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans
 - h) reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability.
- 2.35 In regard to point a), the site is lined by an established and mature hedgerow to the eastern and southern boundaries. This mature hedgerow goes some way to screening the north-west boundary which is shared with Doric Lodge, however this becomes sparser towards its western edge. Policy H of the NPPTS states that traveller sites should be well planned and soft landscaped, positively enhancing the environment and increasing openness. They should not be enclosed by hard landscaping to such a degree that a site could be seen deliberately isolated from the rest of the community. A post and rail fence has been shown on the proposed layout plan to enclose the residential parcel of the site (part of this boundary treatment is existing), but this is set inward from the established hedgerow and would not impact the integration of the site with the street scene and community. It is recommended to ensure that the development positively contributes towards the environment, a condition is imposed requiring the retention of the existing hedgerows. The appearance of the front access gate should also be subject to a condition requiring its agreement.
- 2.36 In regard to point b) and c), as highlighted above, the proposal would provide a stable base that would provide both families with opportunities of access to health services and education.

- 2.37 In regard to point d), the proposal would provide a settled base for both families, which if planning permission were refused, would otherwise leave them travelling on the roadside and commuting to healthcare facilities, school (for the children of Mr and Mrs Gaskin) and places of work.
- 2.38 In regard to point e), it is not considered that the siting of the development would impact on the health and well-being of the future occupants. The impact on existing residents is explored in more detail below.
- 2.39 In regard to point f), the introduction of two families would not be materially significant to impact local infrastructure or services. National and local policy considers the impact of local infrastructure and services in relation to major development (i.e. 10 or more dwellings) as it is at this point that development is considered more likely to have an impact. A development of two pitches would not be considered to significantly impact upon local infrastructure or services.
- 2.40 In regard to point g), the application site is located within Flood Zone 1. Whilst part of the site is at high to medium risk of surface water flooding, the caravans and dayrooms would be located outside of the area at risk of surface water flooding.
- 2.41 In regard to point h), the applicant has not indicated that they would work from the site and in any case, this may warrant the submission of an additional change of use planning application.
- 2.42 The proposed development has therefore demonstrated that it would therefore provide a number of very special circumstances, as well as being considered as 'sustainable development'.

Green Belt Balance

- 2.43 It has been identified that harm to the Green Belt would result from the proposal which should be given substantial weight. Significant weight is attached to the need for gypsy and traveller sites, the lack of supply of sites, the lack of available alternative accommodation and the personal circumstances of the applicant.
- 2.44 Given the lack of availability and delivery for gypsy and traveller sites within the district and the extent of Green Belt land within the district, it is inevitable that these will need to be accommodated within the Green Belt.
- 2.45 The NPPF makes it clear that any harm to the Green Belt must be clearly outweighed by other considerations. In this case, there are a number of matters which are considered to weigh significantly in favour of the application and this conclusion would be consistent with the outcome of the appeal decisions discussed. Subsequently, the cumulative weight of these other considerations clearly outweigh the substantial harm arising from inappropriateness and urban sprawl in the Green Belt.
- 2.46 It is noted that the applicant's plan depicting the proposed day room (drawing no. 005 REV P01) is labelled as indicative. The application and its green belt considerations

have been determined on the basis of the dayrooms serving each pitch being the scale as shown on this plan. Therefore, albeit labelled as indicative, it is recommended that a condition be imposed requiring the dayroom be constructed in accordance with that shown on drawing no. 005 REV P01.

Green Belt – Change of Use of Land for the Keeping of Horses

- 2.47 The NPPF discusses within paragraph 150(e) that the material change in the use of land would be appropriate development within the Green Belt. Policy GB2 of the Core Strategy similarly considers that development for outdoor recreation within the Green Belt would be appropriate. The preamble for Policy GB2 discusses that equestrian facilities in particular are appropriate activities in the Green Belt. This is reflected by Policy DM15 of the Development Management Plan which sets out the circumstances in which equestrian development within the Green Belt is considered acceptable.
- 2.48 The application only proposes the use of land for the keeping of horses and does not propose the construction of any stables. As such, the proposal would be compliant with the above mentioned Green Belt national and local policies. For the most part, Policy DM15 sets out the requirements for equestrian buildings to comply with, meaning only parts (v) and (vii) are of relevance to a proposal for the keeping of horses.
- 2.49 Part (v) of Policy DM15 requires that the proposal is well related to existing bridleways so that it would have no adverse effect on the road or highway safety of the area. The application site is within close proximity to the bridleway Hawkwell 35 which runs from the east of the property known as The Glen. This bridleway adjoins to the north to the bridleway known as Hawkwell 34. The site can be considered as well related to existing bridleways.
- 2.50 Part (vii) of Policy DM15 requires there to not be a detrimental effect on the amenity of the local area by virtue of noise, light, smell or disturbance. Given the scale of the paddocks (0.33ha) proposed, in accordance with the British Horse Society requirements (0.4ha-0.6ha per horse), the development could accommodate one horse. The agent has confirmed that the paddocks would be utilised for the keeping of horses in accordance with the BHS standards. A condition is recommended to be imposed to require no more than one horse be kept on the site to ensure compliance with these standards. As such, it is not considered that one horse would have a significant impact in terms of noise or smell that would detrimentally impact the nearby residents. This is substantiated by the fact that there are two horses kept on the site at present and no complaints have been raised with the Council's Environmental Health department in relation to noise or smell. Little disturbance would occur as the horse would be tended by the residents of the application site, meaning there would be no additional movement to and from the site beyond that associated with the residential use (which is considered in more detail below). The impact of light will be explored in more detail below but can be controlled through the imposition of a condition.

- 2.51 The proposal would therefore be compliant with the NPPF, Policy GB2 of the Core Strategy and Policy DM15 of the Development Management Plan.

Impact on Character of the Area

- 2.52 Whilst it is acknowledged that caravans are not in keeping with the bricks and mortar houses of Lincoln Road and Magnolia Road, there is a legal requirement by the Equality and Diversity Act to not discriminate against an ethnic group. It is the cultural practice of this ethnic group (gypsies and travellers) to reside in caravans and therefore the fact that their homes look different to the settled communities' should not be discriminated against by planning decisions. The development, however, would be integrated better within the street scene through the implementation of soft landscaping. It is considered that the site has a good provision of soft landscaping that largely shields views of the site from the surrounding area, and a condition should be imposed requiring the retention of this landscaping.
- 2.53 Additional native hedging has been proposed internally to the site as well as additional planting of trees and shrubs. This soft landscaping provision would improve views of the hard-standing driveway from the vehicular access point on Lincoln Road. It is recommended that a condition be imposed requiring the species and planting details of these shrubs and trees.
- 2.54 No details have been submitted relating to the appearance of the proposed mobile homes. However, mobile homes tend to follow a standard appearance and sizing and therefore it is not considered essential to request these details. Furthermore, caravans and mobile homes require replacement from time to time and the grant of permission would allow the provision and replacements rather than being set to a specific design.
- 2.55 A condition is recommended to be imposed which requires details of the lighting on site to be agreed by the local planning authority. This would be in accordance with Policy DM5 which requires lighting to not impact upon residents or the character of rural areas i.e. through impacting the unpolluted nights sky.
- 2.56 Subject to the imposition of the landscaping and lighting conditions, the proposed development would be compliant with the NPPF and Policy DM1 and Policy DM5 of the Development Management Plan.

Impact on Residential Amenity

- 2.57 As highlighted above, the site is adjacent to the residential properties known as Doric Lodge Lincoln Road and Wayside Lodge Magnolia Road. It is also opposite to The Glen (Shalynn the Friendly Cattery) Lincoln Road.
- 2.58 Given the single storey nature of the mobile homes, touring caravan and dayrooms and the significant separation with the neighbouring residential dwellings (some 28m with Doric Lodge, some 113m with Wayside Lodge and some 80m with The Glen), the proposal would not be considered to have an overbearing or overshadowing impact upon these existing residential properties. This would be an appropriate

separation for residential units and also in keeping with the pattern of development of both streets.

- 2.59 Comments have been received with regard to the impact of the development upon the private roads of Lincoln Road and Magnolia Road. The development for two residential pitches would not be considered to have a detrimental impact upon either the quality of the road or the traffic. Paragraph 111 of the NPPF sets out that development must only be refused for highway related issues where it can be demonstrated that the impact on the highway network would be severe. It is not considered that the increase of only two residential units would materially impact the traffic of Magnolia Road or Lincoln Road to a degree that could be considered severe. Further, as the street is private, the quality and maintenance of the road is a civil matter and not for consideration by a planning application.
- 2.60 Other comments have been received in relation to the increase of noise that would result from the formation of two additional households. The development of two pitches would not have any greater impact upon noise than the presence of two brick and mortar dwellings. Further, the proposed site layout depicts that the mobile homes would be located towards the northern boundary (maintaining a minimum separation of some 10m with the northern boundary) and the dayrooms south of these mobile homes (maintaining a minimum separation of some 18m with the northern boundary). As is established within the Department for Communities and Local Government's Good Practice Guide for Designing Gypsy and Traveller Sites, dayrooms are primarily used within the day and generally include the kitchen, living room, dining area and bathroom. Meaning the mobile homes are retained usually for sleeping. Therefore, the building which would occupy much of the residential activity would be located furthest from the residential property of Doric Lodge which is the closest adjoining neighbour.
- 2.61 Internally, a closeboarded timber fence, approximately 28.8m in length, is proposed to separate the two pitches. This would preserve the privacy of the two families and prevent overlooking.
- 2.62 The proposed development would be compliant with Policy DM1 of the Development Management Plan in this regard.

Highways and Parking

- 2.63 The application site would be accessed via an existing vehicular crossover on Lincoln Road which is a private road. This access is prohibited slightly by the hedgerow, however, the access is wide meaning that vehicles could go to the widest point to gain further visibility. Ample space could be provided within the site to allow vehicles to exit the site in forward gear. The use of this access is not considered to result in an impact upon highway safety, particularly given its an existing access that could be used at any point by vehicles.
- 2.64 The proposed site plan indicates an area of hard-standing that would be capable of providing a minimum of two off-street parking spaces per pitch which would measure

the parking standard dimensions of 2.9m x 5.5m. On this basis, the proposal would be compliant with Policy DM25 of the Development Management Plan.

Surface Water Flood Risk

- 2.65 The application site is located within Flood Zone 1, however, parts of the southern end of the site are at medium to high risk of surface water flooding. Footnote 55 of paragraph 167 of the NPPF requires that where land that may be subject to other sources of floodings (not covered by flood zones) and where its development would introduce a more vulnerable use, a site specific flood risk assessment would be required which demonstrates the following criteria:
- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
 - b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;
 - c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
 - d) any residual risk can be safely managed; and
 - e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.
- 2.66 With regard to part (a) the residential development is located in the area of the site that would be at the lowest areas of surface water flooding, meaning that part (b) would not be required in this instance.
- 2.67 However, officer's assessment of the other parts of paragraph 167 is limited due to a flood risk assessment and drainage strategy not having been submitted. Officers have corresponded with the Lead Local Flood Authority (LLFA) on the matter who consider that where sites are rural, with extensive areas of greenfield, it is more likely that suitable surface water drainage schemes can be carried out on site to suitably mitigate the impact of increased surface water run-off. These circumstances apply to the application site. Furthermore, the proposed site plan details that the driveway and hard-standing would be formed of a loose bound permeable hardstanding. The permeability of this hardstanding would reduce the speed of the run off rate and would be better reflective of the existing greenfield run off rate. Additional measures could be put in place such as a soakaway, to slow the run off rate further to be no greater than the greenfield run off rate. On the basis that officers and the LLFA are content that a surface water drainage scheme could be provided on site, it is considered acceptable that a condition requiring these details be imposed.

Foul Drainage

- 2.68 It is understood from the application form that the applicant proposes to install a package treatment plant on the site to connect to the proposed pitches. A development of this scale would not warrant significant consideration of the foul drainage proposed and the Environment Agency has not been consulted on this basis. As such, it is considered reasonable that a condition can be imposed to require

further detail of the package treatment plant to ensure that it would comply with the general binding rules and EA foul drainage guidance.

Trees

- 2.69 There are trees and hedgerows located along the boundaries of the application site and in a band through the centre of the site (adjacent to the watercourse, although the site plans do not depict this). The plans do not show that any of these trees would be removed by the proposed development. As noted above, the application would be conditioned to retain the existing soft landscaping boundary treatments, however, some of the proposed hardstanding would likely be within the root protection area of a number of trees on site. As such, it is recommended that a condition be imposed requiring an Arboricultural impact assessment to be submitted. Subject to the imposition of this condition, the proposal would be compliant with Policy DM25 of the Development Management Plan.

Ecology

- 2.70 Policy DM27 of the Development Management Plan outlines that proposals should not cause harm to priority species and habitats identified under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006. This policy discusses that development will only be permitted where it can be demonstrated that the justification for the proposal clearly outweighs the need to safeguard the nature conservation value of the priority habitat and/or the priority species or its habitat.
- 2.71 An Ecological Appraisal (EA) for the site prepared by Allied Ecology dated May 2023 has been submitted with the application. The appraisal has been completed by a Chartered Ecologist who is a Full Member of the Chartered Institute of Ecology and Environmental Management (MCIEEM). The EA identifies the timeframe that the surveys were carried out and considers the surveys and third party information to provide an accurate baseline to assess the potential for impacts on habitats and protected species.
- 2.72 The application site is located approximately 4m west of the Magnolia Nature Reserve Local Wildlife Site. The EA has identified that given the nature and scale of the proposed development, it is considered that this designation is highly unlikely to be affected. Within the site itself, the site is formed of habitats such as a grazed paddock, hedgerows, woodland and drainage ditch. The below table identifies the on-site fauna and recommendations set out within the EA:

Fauna	Habitat	Recommendation
Bats	A single tree located at the site's eastern boundary (shown on drg. no. 003 REV P01, approximately 50m north of the site access) is identified as providing	Trees with bat roosting potential are understood to be entirely retained/unaffected by under the proposals. New high quality habitat creation will compensate

	<p>features with the potential to support roosting bats.</p> <p>Limited foraging opportunities are present in the form of the boundary hedgerows and woodlands.</p> <p>No evidence of bats were found within the existing dilapidated structures/buildings on site.</p>	<p>the loss of foraging habitat under the development and can be secured through a condition.</p>
Badger	<p>No evidence of badger setts or foraging however, it is likely that badgers may occasionally pass through/make use of the site.</p>	<p>A condition should be imposed requiring the survey to be updated prior to development works to re-confirm the presence/likely absence status of badgers at the site.</p>
Other mammals	<p>Other mammal species likely to be present are widespread and not afforded specific legislative protection.</p>	<p>General construction safeguards.</p> <p>In order to maintain permeability through the site for hedgehogs, it is recommend 13cm x 13cm cut-outs are included at the base of proposed boundary features.</p>
Great crested newts	<p>A ponded ditch is present on site and Great Crested Newts have been confirmed to be absent. Two waterbodies are present within proximity of the site (~25m), both of which are confirmed to support GCNs.</p>	<p>No further Phase 2 survey work required.</p> <p>A condition should be imposed requiring the development to implement precautionary site clearance measures, under non-licensed Method Statement.</p>
Reptiles	<p>No suitable habitat is present within the site.</p>	<p>Implement precautionary site clearance measures.</p>
Birds	<p>Suitable nesting habitat in the form of a boundary hedgerow.</p>	<p>A condition should be imposed requiring no vegetation clearance to take place within the nesting bird season.</p> <p>A condition should also be imposed requiring the</p>

		introduction of new nesting habitats.
Invertebrates	Common and widespread species likely to be present	A condition should be imposed requiring the introduction of new foraging/nesting habitats

- 2.73 Subject to the implementation of the recommended mitigation and safeguarding measures, it is considered that no significant harm to any habitats or faunal species of interest will occur as a result of the proposed development. The proposal would therefore be compliant with Policy DM27 of the Development Management Plan.

Off-site Ecology

- 2.74 The application site falls within the ‘Zone of Influence’ for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMs). This means that residential developments could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressures of future residents to the dwellings proposed.
- 2.75 The development for two dwellings falls below the scale at which bespoke advice is given from Natural England. To accord with NE’s requirements and standard advice and Essex Coastal Recreational disturbance Avoidance and Mitigation Strategy (RAMs) Habitat Regulations Assessment (HRA) record has been completed to assess if the development would constitute a ‘Likely Significant Effect’ (LSE) to a European Site in terms of increased recreational disturbance. The findings from HRA Stage 1: Screening Assessment are listed below:

HRA Stage 1: Screening Assessment – Test 1 – the significant test

Is the development within the zone of influence (Zol) for the Essex Cost RAMS?

- Yes

Does the planning application fall within the following development types?

- Yes. The proposal is for two residential units.

Proceed to HRA Stage 2: Appropriate Assessment - *Test 2 – the integrity test*

Is the proposal for 100 houses + (or equivalent)?

- No

Is the proposal within or directly adjacent to one of the above European designated sites?

- No

- 2.76 The current proposal has been considered in respect of the Habitat Regulations, taking account of advice submitted by Natural England and the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) developed by

Essex County Council which seeks to address impacts (including cumulative impacts) arising from increased recreational activity. The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (SPD) was adopted by Rochford District Council on the 20 October 2020. Advice from Natural England in August 2018 has been followed and the HRA record template completed.

- 2.77 The conclusion of the HRA is that, subject to securing appropriate mitigation, the proposed development would not likely result in significant adverse effects on the integrity of the European site along the Essex coastline.
- 2.78 The applicant has paid the suggested financial contribution per new dwelling to contribute towards longer term monitoring and mitigation along the coastline, to mitigate adverse impact from the proposed development on the European designated sites by way of increased recreational disturbance.

3.0 CONSULTATIONS AND REPRESENTATIONS (summarised)

Hawkwell Parish Council

- 3.1 Inappropriate development within the green belt and no very special circumstances have been identified. RDC should explain what mitigations would be put in place to negate any harm.
- 3.2 Will harm the character and appearance of this rural site which is currently a meadow with diverse habitats for wildlife in a peaceful natural area.
- 3.3 Do not consider the application compliant with national policy for traveller sites.
- 3.4 Errors with the application form that should be clarified.
- 3.5 The development would add extra traffic movements to rural/private roads.
- 3.6 There would be an increase of noise and disturbance to local residents and users of Magnolia Nature Reserve.

Neighbour Representations

- 3.7 During the course of the application, concerned comments were received with regard to the address of neighbours/interested parties being published online. Neighbour letters, the site notice and the Council's website inform residents that all responses will be published with the name and address of that person commenting. This is to provide certainty that the interested party commenting is from the local area. However, given the concern raised by residents, all names and addresses have been redacted on this occasion. Albeit residents have been informed that anonymous comments are not able to be given as significant weight given that officers cannot verify that they live or work within the local area.

- 3.8 The Council's website also informs interested parties that the Council reserve the right not to publish or take into account any letters of representation which are openly offensive or defamatory. Any comments which do not relate to material planning considerations have been redacted and will not be summarised by this report.
- 3.9 123 comments have been received. In the main, the comments received can be summarised as follows:
- The land is green belt and the development of it would be inappropriate
 - Has foul drainage/refuse been considered
 - Increase of traffic on a private road
 - Impact on ecology and wildlife, particularly the close proximity nature reserve
 - Increase traffic will be dangerous to children
 - Increase of noise and disturbance
 - Lack of infrastructure to support the use
 - Flood risk on site
 - Loss of trees and vegetation
 - Increase noise and pollution
 - Caravan site is not in keeping with the area
 - Applicant has not demonstrated they meet the definition of a gypsy and traveller

4.0 EQUALITY AND DIVERSITY IMPLICATIONS

- 4.1 An Equality Impact Assessment has been completed and found there to be an unlikely impact (either positive or negative) on protected groups as defined under the Equality Act 2010.

Phil Drane

Director of Place

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RELEVANT DEVELOPMENT PLAN POLICIES AND PROPOSALS

National Planning Policy Framework 2021

Core Strategy Adopted Version (December 2011) Policy GB1, GB2, H7, T8

Allocations Plan 2014 – GT1

Development Management Plan (December 2014) Policy DM1, DM5, DM15, DM25, DM27, DM30

Parking Standards: Design and Good Practice Supplementary Planning Document (December 2010)

Planning Policy for Traveller Sites (2015)

BACKGROUND PAPERS

Equality Impact Assessment

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
N/A	

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