

22/01198/FUL

ARTERIAL PARK, CHELMSFORD ROAD, RAYLEIGH

**PROPOSAL FOR THE FORMATION OF LANDSCAPE BUNDS,
IMPLEMENTATION OF A LANDSCAPING SCHEME, ALONG
WITH THE INSTALLATION OF ASSOCIATED DRAINAGE
INFRASTRUCTURE**

- 1. Correction to the Officer Report**
- 2. Possible Condition**
- 3. Applicants' Reply**
- 4. Officers' Comment**

1. Correction to report:

Paragraph 24 (page 6.1.6) to the officer report provides an assessment of the relative land area taken up by the proposed bunds in relation to the allocation. It concludes that with implementation of the proposed bunding only 0.667ha of land would remain and short of the 0.75ha required to fulfil the purpose of the allocation.

The applicants have reviewed this assessment and identified that the site area on which the officer assessment is based has counted the balance of land on the site but excluded land outside of the applicants' control but still forming part of the allocation.

The applicants state that taking this additional area into account, the bunding proposed would exceed the 0.75ha required.

Officers have revisited this calculation. The applicants exactly agree with officer's areas for the two bunds; however, the applicants have then looked to a percentage value for the balance remaining.

Taking into account the balance of the site allocation not within the applicants' control, as highlighted by the applicant, the actual correct remaining land area following implementation of the bunding would retain 0.75ha of land, as required by the allocation and policy GT1 to the Council's Allocations Plan.

The proposal would not therefore fall short but would meet the land area required.

2. Possible condition:

Following the application being referred and the points raised about potential compromising of the site allocation, officers and the applicants have given thought to a possible condition to ensure that, if allowed, the implementation of the bunding would not take up too much site coverage so as to prevent the necessary number of pitches or proper site access being achieved.

Officers have considered the following condition:-

Condition 4 - Completion of elements of development

Notwithstanding the submitted and approved plans, the landscaped bunding hereby permitted shall be constructed in a manner to ensure that the site allocation can provide adequate access and a minimum of 15 pitches for Gypsies and Travellers.

REASON:

In order to ensure that the approved bunding does not compromise the purpose of site allocation GT1 to the Rochford District Council – Local Development Framework adopted Allocations Document (2014) in meeting the planned provision required for Gypsies and Travellers.

A condition has to satisfy all of the six tests set out by government. These are:-;

1. Necessary
2. Relevant to planning
3. Relevant to the development permitted
4. Enforceable
5. Precise
6. Reasonable in all other respects

The need to ensure the bunds do not compromise the purpose of policy GT1 in officers' view satisfies being necessary at test 1). The condition is relevant to planning and the application at hand so passing tests 2) and 3).

Officers consider the requirements enforceable at test 4) because of satisfaction of tests 1), 2) and 3). The works potentially necessary would be relatively straightforward by moving soil and regrading and replanting, together with any changes to drainage.

Officers, however, have some doubt as to whether the suggested condition would in fact be precise, as required by test 5. To state "in a manner" is vague. It would be

more precise if there was already an approved layout on which to rely. As suggested, the applicants would not exactly know what would be required. Without an approved layout plan for the allocation this condition does not work.

Finally, the condition and its wording must be reasonable in all other respects at test 6. The test is whether the last degree of fit required (at test 6) is reasonable in all other respects of general life and commercial activity and law. Officers consider this can be argued that test 6 would be satisfied because with the condition the bunding would achieve the required screening without compromising the purpose of the allocation.

3. Applicants' Reply

Indicative GT1 Site Layout

The applicants have provided an **indicative GTS site layout** for the Committee presentation. This is provided without prejudice and will not be submitted as a formal plan for approval.

The indicative GTS site layout was prepared to specifically inform bund design and layout to ensure 75% of the GTS site area remained undeveloped in accordance with the GT1 site allocation policy.

I've also attached the email I sent Elise that we discussed regarding the site area figures which confirms that 80.88% of the GT1 site would remain undeveloped and therefore in accordance with the GT1 site allocation policy. Would appreciate if you could outline this within your Committee Addendum.

In terms of the actual GTS layout, this has been based on DCLG's [*Designing Gypsy and Traveller Sites Good Practice Guide*](#) (May 2008) and includes the following details to ensure general compliance with the most recent national guidance:-

- Accommodation of 15 pitches, plus room to accommodate a further four additional pitches in case of future additional need;
- A green buffer and bund between the pitches and adjacent employment uses (the NEL1 land), promoting green links and biodiversity corridors;
- Utility building with space for parking for each pitch;
- Enough pitch space to provide a gap of 3 metres between buildings as a fire prevention measure;
- Ample space for each pitch for both living accommodation and vehicular parking, including easy manoeuvrability including access/egress to the site;
- Easy access for emergency vehicles and safe places for turning vehicles;
- Vehicular and walking routes;
- Clearly defined public and private space including a communal recreation area for children of all ages, including the provision of play space within the site;
- Bin storage; and
- Suitable sanitation area (which could include a septic tank).

You will also note that the indicative layout includes a full bund towards the SE corner of the site. Part of this corner of the site allocation is not within our ownership so we are only proposing a bund up to our red line boundary. The indicative layout plan shows how the bund could be extended at a later date, if required.

Potential Planning Condition

Regarding the potential condition that the call-in Member had requested and that you've suggested, at present we **cannot** agree to this as in our view this does **not** meet the relevant tests. Hopefully now that we have provided the indicative plan, this should pacify the concerns of the Councillor and reassure them that there is no need for any condition.

We have demonstrated as per the attached indicative design that our proposed development safeguards the land for future GTS use (noting it also improves its overall amenity), and that it retains >75% of the site allocation area in accordance with the GT1 site allocation policy. Therefore, it is unclear why a planning condition would be necessary.

As our client is only seeking permission to erect 2 x landscape bunds – this proposed development has nothing to do with the provision of GTS and is completely unrelated. In any case, the proposals would positively benefit the site and by default would safeguard and improve potential future GTS use. This begs the question why any condition would be necessary – or reasonable or relevant to the proposed development.

The future design/layout would be the responsibility of whoever was bringing the site forward and would be subject to its own standalone planning application and normal consultation procedures. Therefore, there is no way to fully ensure that 15 x pitches could be accommodated until a formal planning application for that use was submitted. We think this needs to be explained to Members at Committee, as necessary.

We don't consider there is anything that the proposed planning condition could achieve that hasn't already been factored into the indicative design and is therefore not considered reasonable or enforceable. Therefore, as outlined above, we cannot currently agree to any potential condition that wouldn't meet **any** of the six tests (i.e. necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise; reasonable in all other respects).

4. Officers' Comment

On review, there is no shortfall in the balance of the remaining land being able to fulfil the intended allocation.

The applicants have since provided an indicative site layout for the balance of the site to demonstrate that the purpose of the allocation could be satisfied. This indicative layout only serves to show that development is possible and would accord with government standards for Gypsy and Traveller site layout.

As the applicants have proved there to be no actual shortfall in the balance of the remaining land and that they object to the condition set out above, given also that

officers do not think that condition satisfies at least the test of precision, **officers advise against the use of a condition** to ensure that the allocation can be achieved with implementation of the bunding, were it to be approved.