



**Rochford District
Council**

DEVELOPMENT COMMITTEE

24th August 2023

APPLICATION NO.	23/00358/FUL
ADDRESS	Land Opposite Searles Yard, Trenders Avenue, Rayleigh
APPLICATION DETAILS	Material change of use of land and building for the stationing of caravans for residential purposes.
APPLICANT	Mr Thomas Scott
ZONING	Metropolitan Green Belt (MGB)
PARISH	Rawreth Parish Council
WARD	Downhall and Rawreth

REPORT SUMMARY

Planning permission is sought for the change of use of land and an existing stable block for the stationing of two gypsy and traveller pitches and the subsequent residential use. 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 Thomas Scott, Mrs Louise Scott and their resident dependents and Mr Larry Scott and Mrs Pamila Scott. When the land ceases to be occupied by Mr Thomas Scott, Mrs Louise Scott, Mr Larry Scott and Mrs Pamila Scott, the use hereby permitted shall cease and all caravans, structures (including the stable block), 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 P01; 002 REV P01; 003 REV P02.

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) The retained stable block shall be solely used as a dayroom for purposes ancillary to the residential use of the site. The stable block 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.

- (6) Prior to the caravans being brought onto the site, an alternative boundary treatment to replace the closeboarded timber fence as depicted on drawing no. 003 REV P02, shall be submitted to and agreed in writing by the local planning authority. The agreed boundary treatment shall be installed in complete accordance with those details agreed prior to the first use of the site for residential purposes.

REASON: In the interest of the visual amenity of the street scene and to prevent the site becoming isolated from the rest of the community, in compliance with the requirements of the NPPF and National Planning Policy for Traveller Sites.

- (7) Prior to the installation of any 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. Any means of enclosure as may be agreed by the local planning authority, 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 NPPF and National Planning Policy for Traveller Sites.

- (8) The existing trees and hedgerow within the application site depicted between the points A to F on the approved drawing no. 003 REV P02, 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.

- (9) 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.

- (10) Prior to the planting of the trees and hedge as depicted on drawing no. 003 REV P02, 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.

- (11) 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.

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 P01 002 REV P01 003 REV P02
SUBMITTED DOCUMENTS	Planning Statement Personal Circumstances (P&C)

- 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 and 1no. touring caravan. The pitches have been shown to be located along the southern boundary of the site where loose bound permeable hardstanding and would be laid to facilitate this use.
- 1.2 The proposal also seeks to change the use of the existing stable block to a dayroom. This would be ancillary to the residential caravans/pitches. A dayroom is understood to form a vital function of a gypsy and traveller pitch as it is not their cultural practice to wash or cook within their mobile homes. Instead these activities are undertaken in the dayroom.

2.0 MATERIAL PLANNING CONSIDERATIONS

Site and Context

- 2.1 The application site is located on the western side of Trenders Avenue, opposite Pyne Cottage and Mill Cottage. Trenders Avenue is a private road which is occupied by a collection of residential dwellings which are located sporadically along the throughfare. The entirety of Trenders Avenue is allocated within the Metropolitan Green Belt and this is reflected by the rural character of a single track unmade road and modest dwellings within large plots.
- 2.2 The application site is formed by a parcel of land which is currently occupied by a stable block (known on OS maps as Alexandra Villa) and paddocks. The site is subject to extensive planning history and has historically been referred to as 'Land Opposite Searles Yard'. Whilst Searles Yard no longer exists, the site has historically been referred to by this identification. Members of the public and Councillors alike may know the site as 'The Stables, Trenders Avenue'.
- 2.3 The site itself measures some 0.29ha in scale. It is currently enclosed along part of the eastern and southern boundary by a 1.8m closeboarded timber fence. The southern and western boundaries are then continued on by post and rail paddock fencing. The other part of the eastern boundary and the entire northern boundary are enclosed by an established hedgerow. The 1.8m closeboarded timber fence was erected in 2021 and is on the immediate boundary of the site with the road; as such it does not contribute well to the street scene, however, it is understood that the fencing is permitted development and does not require planning permission.

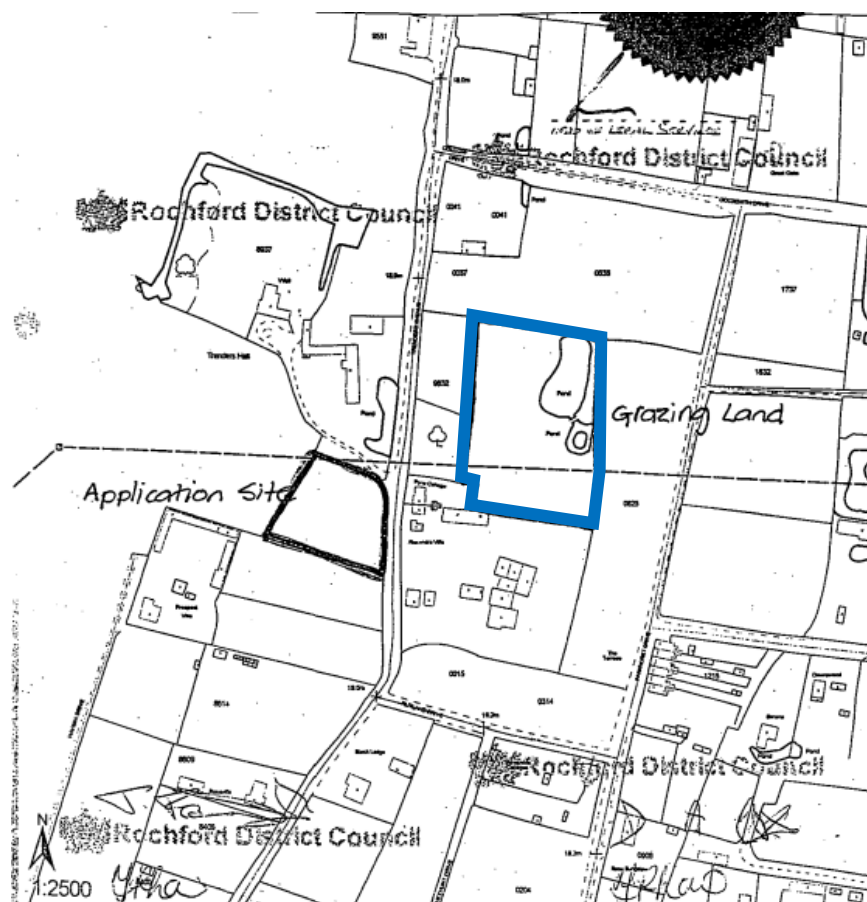
- 2.4 The application site is not immediately adjoined by any residential dwellings due to the presence of an access track serving Trender's Hall and the public right of way (Rawreth 71) which run to the north and south of the site and Trender's Avenue which runs along the eastern boundary of the site. The site is however, opposite to dwellings known as 'The Barn' (known now as Tryndehayes), 'Pyne Cottage', 'Mill Cottage' and the group of dwellings at Heron Stream Place.

Relevant Planning History

- 2.5 Application No. 01/00313/FUL – Erect stable block and enclosed walled yard – Permitted (not built)
- 2.6 Application No. 02/00235/FUL – Erect stables and storage building (resubmission following 01/00313/FUL) – Permitted. This application was subject to a S106 agreement which restricted the following:

“To remove the stable block and storage building permitted under planning application reference 02/00235/FUL at such time as the land edged in blue on plan 1 annexed hereto becomes unavailable for use for the grazing of horses in connection with the use of such stable block”

The land edged in blue is as per the plan below:



- 2.7 Application No. 09/00717/COU – Change of use of stables into offices – Refused, appeal dismissed.
- 2.8 Application No. 18/00294/FUL – Change of use from stables/storage unit to residential with alterations to elevations and create decking area – Refused for the following reason:
1. The building to which this application relates was granted consent under application 02/00235/FUL. This consent was subject to a Section 106 legal agreement dated 1st October 2002, which requires the building subject to this application to be removed at such time as the land outlined on the map attached to the agreement becomes unavailable for the grazing of horses. It is considered that the majority of this land outlined is no longer available for grazing. As such, the continued presence of the building subject to this application is considered to be in breach of the legal agreement and that the building is consequently unlawful. In the circumstances, it is not considered appropriate to grant approval for the proposal, given that the building to which it relates is considered to be in breach of a Section 106 legal agreement
- 2.9 Application No. 19/00357/FUL – Application to discharge planning obligation (Section 106 Legal Agreement) attached to 02/00235/FUL dated 1st October 2002 – Refused for the following reason:
1. The proposal to remove the s106 legal agreement related to planning consent 02/00235/FUL would result in the development at the site falling contrary to the National Planning Policy Framework Green Belt policy and Policy DM15 of the Development Management Plan which does not provide scope for the provision of equestrian facilities without sufficient amount of open space for grazing. As such it has not been demonstrated that there is no longer a useful planning purpose served by the restriction. Therefore, without the restriction in place, the development would be contrary to policies contained within Rochford District Local Development Plan, and Government advice as contained within the NPPF relating to Green Belts.
- 2.10 The site is subject to enforcement action due to the breach of the S106 legal agreement which required the removal of the stable block when the land edged in blue became no longer available for grazing. It is understood that this land is no longer available for grazing and therefore as per this legal agreement, the stable block is understood by officers to be required to be removed.

Gypsy and Traveller Status

- 2.11 The ethnicity and the personal circumstances of an applicant would not normally be a material 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).

2.12 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.”

2.13 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.

2.14 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.

2.15 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. 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

2.16 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.

- 2.17 Policy GB1 of the Core Strategy (2011) seeks to protect Green Belt land by directing development away from Green Belt land so far as is practicable.
- 2.18 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.
- 2.19 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

- 2.20 The application site is within a prominent location along Trenders Avenue given that it is a peninsula between two access tracks and a public right of way. The internal site is shielded in some parts by views from the public realm by existing hedgerows and boundary treatments. 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.
- 2.21 Nonetheless, the proposal would involve the introduction of two permanent mobile homes 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

- 2.22 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.
- 2.23 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

- 2.24 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.
- 2.25 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 (reference: 16/00558/COU application 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 application 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.
- 2.26 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.
- 2.27 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.”

- 2.28 More recently, the Inspector for the appeal at Land Opposite 2 Goldsmith Drive (implementation of reference: 17/01240/FUL application 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.”

- 2.29 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 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.
- 2.30 Sites at Land Adjacent to St Theresa (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.

- 2.31 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 applicants

- 2.32 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.
- 2.33 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 and as a result of their permanent pitch being closed down by the owner of the site. 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.
- 2.34 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.
- 2.35 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

- 2.36 The application site would accommodate two families; the family of Mr Thomas Scott and his father (Mr Larry Scott) and mother (Mrs Pamila Scott).
- 2.37 Mr Thomas Scott and his wife (Mrs Louise Scott) have four children under the age of 16 who all require a stable education. At present, the eldest children who are of school age, have not been able to obtain this due to the lack of permanent residency. Two of the children and the applicant's wife have health issues which require regular hospital appointments and these are currently facilitated by local hospitals.
- 2.38 Mr Larry Scott and Mrs Pamila Scott support the applicant, Mr Thomas Scott, and his family with childcare on occasion as is a common cultural practice within gypsy and traveller communities. Additionally, Mrs P Scott has a number of health issues which result in many trips to the hospital where she is registered. This hospital is about a 2 hour journey from Mrs P Scott's current residence which is not sustainable given the condition of her health. However, Mrs P Scott is not able to transfer to a more local hospital until she has a permanent address.
- 2.39 The need to provide a stable residence for educational and healthcare purposes is understood and 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

- 2.40 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.
- 2.41 In regards to point a), the proposed plans show the maintenance of the existing hard boundary treatments. Policy H of the NPPTS states that traveller sites should be well planned and soft landscaped, that positively enhances the environment and increases openness. They should not be enclosed by hard landscaping to such a degree that a site could be seen as deliberately isolated from the rest of the community. As such, a planning condition will be imposed which requires alternative boundary treatments that are more sympathetic to the character of the area than the existing closeboarded fencing.
- 2.42 In regards 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.
- 2.43 In regards 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 and places of work.
- 2.44 In regards 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.

- 2.45 In regards 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 on this. Whereas a development of two pitches would not be considered to significantly impact upon local infrastructure or services.
- 2.46 In regards to point g), the application site is located within Flood Zone 1 and is located in an area of low surface water flood risk.
- 2.47 In regards 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.
- 2.48 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

- 2.49 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.
- 2.50 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.
- 2.51 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.

Green Belt –Stable Block

- 2.52 As discussed within the planning history body of this report, the stable block building is understood by officers to be unlawful as it is in breach of the S106 agreement tied to the planning permission which permitted it. This agreement required the building to be removed if the grazing land was no longer available, which is understood from previous applications at the site to be the case here, and therefore continued existence of the building remains (in the view of officers) unlawful. Officers' view is that planning permission is required for the retention of an unlawful building (rather than it being a change of use as the description states) and it must be treated as introducing a new building within the Green Belt which is considered to be inappropriate development which is harmful by definition.

- 2.53 It is understood that the applicant is of the view that this building is not unlawful and will in due course provide their reasoning for this. Their view is that the description of development for the 'change of use' of the building is correct as the building is lawful. If this is the case, this would be considered as appropriate development by paragraph 150(d) and would not warrant any further consideration. However, as officers are not clear on this, an assessment considering the development as inappropriate development and whether any very special circumstances exist to outweigh the harm of inappropriate development has been set out in full.
- 2.54 In 2008 the Department for Communities and Local Government produced a good practice guide for designing gypsy and traveller sites¹. Whilst this was withdrawn in 2015 and replaced by the NPPTS this replacement policy does not provide as helpful guidance on day rooms as its predecessor.
- 2.55 Paragraph 7.17 of the Designing Gypsy and Traveller Sites: a Good Practice Guide (DGTS) outlines that the amenity building must include as a minimum: hot and cold water supply; electricity supply; a separate toilet and hand wash basin; a bath/shower room; a kitchen and dining area. The access to the toilet should be through a lobbied area.
- 2.56 Paragraph 7.19 of the DGTS Guidance states that the inclusion of a living room within this building for family meals is recommended. The living room could be combined with the kitchen area to provide a kitchen/dining/lounge area. The guidance states that the inclusion of these facilities would replicate the provision of a living room as enjoyed by other sectors of the community.
- 2.57 At present, no floor plans have been submitted to depict how the stable block would be used as a dayroom. However, the agent has confirmed that these will be received ahead of the development committee. Consideration can still, in the meantime, be had to the scale of the building for use as a day room.
- 2.58 It is understood from the DGTS Guidance that the day room would be used for cooking and eating as it is not part of the traditional way of life for the gypsy and traveller community to do anything other than sleep within their mobile homes. Recently, the Council granted permission for a 65m² day room at Land North of 172 Rawreth Lane (ref: 23/00222/FUL). This day room would serve one pitch and one family, in contrast to the proposal which would be required to serve two pitches and two families. The stable block has an external footprint of some 90m². In light of the proposed use of this stable block being as a day room for two pitches and two families, it is considered that this scale would not be unreasonable. The DGTS Guidance is clear that an amenity building should be provided on each pitch and can be provided as two separate and entirely self-contained semi-detached units. The scale of the proposed day room is considered to be reflective of the scale recommended to serve two pitches by the former DGTS Guidance. The scale proposed is appropriate for each family to utilise as is traditional to do so for the gypsy and traveller community. The DGTS Guidance lays out that a day room of this

¹ [Designing Gypsy and Traveller sites: good practice guide](#)

scale is reasonable for two families and therefore if the applicant chose to expand his family further there would not be a requirement to extend the footprint beyond what is now proposed.

- 2.59 Taking into account the applicant's culture and necessity for a day room to serve each pitch and the requirement by the NPPF for planning decisions to not exclude any part of the community, it is considered that there are very special circumstances which exist that outweigh the harm to the Green Belt were the view taken that the building is unlawful and permission is required for its retention. Further, the design of the stable block is sympathetic to the rural character and context of the Green Belt and application site.
- 2.60 Therefore, whilst officers are of the view that the description of development is not correct and it should reflect the retention of an unlawful building, it is clear that whether the description be for a change of use or the retention of a building, the proposal would be considered acceptable.

Impact on Character of the Area

- 2.61 Whilst it is acknowledged that caravans are not in keeping with the bricks and mortar houses of Trenders Avenue, 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. The proposed plan also depicts a number of trees proposed to be planted, a condition is recommended to be imposed to require the species and planting details of these trees to be provided. Matters in relation to the hard boundary treatments on site have been discussed above.
- 2.62 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.
- 2.63 Furthermore, 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.
- 2.64 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 Listed Building

- 2.65 The application site is located to the south-east of Trenders Hall, a Grade II listed building. The application site is considered to make a neutral contribution to the setting of Trenders Hall at present.
- 2.66 The site is on the approach to Trenders Hall but is well screened and there is not a known functional link. Given the limited contribution of the site to the setting of the heritage asset, the Council's (Place Services) Heritage Consultant has considered that the proposal would not result in harm to the significance of the listed building. The Council's Heritage Consultant has highlighted that the key to the success of the scheme is the retention and reinforcement of the planted boundaries which has been discussed above. Therefore the proposal would be compliant with the NPPF and Policy DM1 of the Development Management Plan in this regard.

Impact on Residential Amenity

- 2.67 As highlighted above, the site is adjacent to a number of residential properties including Pyne Cottage, Mill Cottage, Lakeside Barn, The Barn (known now as Tryndehayes) and Heron Stream Place.
- 2.68 Given the single storey nature of the mobile homes and touring caravans and the significant separation, a minimum of 38m between the mobile homes and the nearest residential dwellings, the proposal would not be considered to have an overbearing or overshadowing impact upon these existing residential properties. Furthermore, the application site would maintain a separation between the mobile homes and the existing residential properties that would be appropriate for two residential units.
- 2.69 Comments have been received with regard to the impact of the outlook from nearby residential properties. However, no person has the right to a view over land they do not own. As the development would not be overbearing given the significant separation and low rising nature of the proposal, this is not a material consideration of this planning application.
- 2.70 Other comments have been received in relation to a greater provision of noise and air pollution as a result of a "gypsy lifestyle". Such comments are considered discriminatory and are based solely on speculation. The development of two pitches would not have any greater impact upon noise or air pollution than the presence of two brick and mortar dwellings.
- 2.71 The proposed development would be compliant with Policy DM1 of the Development Management Plan in this regard.

Highways and Parking

- 2.72 The application site would be accessed via Trenders Avenue which is a private road. The site itself would be accessed via an existing vehicular access point. Whilst the visibility splay of this vehicular access point would not be ideal, Trenders Avenue is an unmade track whereby vehicles are restricted to a limited speed. The visibility of the access could also be improved by the alternative boundary provision to the existing closeboard fencing recommended to be imposed by condition. Ample space

would also 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.

- 2.73 Comments have been received with regard to the impact of the development upon the private road of Trenders Avenue. 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 Trenders Avenue 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.
- 2.74 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.

Foul Drainage

- 2.75 It is understood from the application form that the applicant proposes to install a package treatment plant on the site to connect the proposed pitches to. 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 and Ecology

- 2.76 There are trees and hedgerows located along the boundary of the application site. The applicant's planning agent has confirmed that no trees would be removed to accommodate the proposed scheme. As noted above, the application would be conditioned to retain the existing soft landscaping boundary treatments. The only groundworks that would be involved would be the result of the laying of hardstanding that would not be within the root protection area of any mature trees. As such, the proposal would be compliant with Policy DM25 of the Development Management Plan which seeks the retention of trees in light of proposed development.
- 2.77 A number of concerns have been raised from interested parties in regards to the impact on wildlife. Policy DM27 of the Development Management Plan outlines that habitats and protected species should not be harmed by development proposals, particularly where this could not be mitigated.
- 2.78 As already noted, the existing hedgerows and trees would be maintained by the proposal. The hard-standing shown on the proposed site plan largely exists and the proposal would involve the addition of only some 220m² of loose bound permeable hardstanding. The area in which this would cover is currently covered by low grade grassland that appears to be regularly maintained and on occasion has been grazed

by horses. The site is therefore not considered to exhibit any habitats of protected species. The proposal is therefore considered compliant with Policy DM27.

Off-site Ecology

- 2.79 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 dwelling proposed.
- 2.80 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
- 2.81 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.
- 2.82 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.

- 2.83 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)

Rawreth Parish Council

- 3.1 This is development within the green belt and no exceptional circumstances have been shown.
- 3.2 The development is an erosion of the Rayleigh Park area.
- 3.3 The development would affect the outlook of Pyne Cottage and Mill Cottage.
- 3.4 There is poor drainage in the area.

Place Services Historic Buildings and Conservation Advice

- 3.5 No objections.

Essex County Council Highway Authority

- 3.6 No objection.

Neighbour Representations

- 3.7 26 comments have been received from the following addresses:
Trenders Avenue; Pyne Cottage (three responses), Lakeside Barn (two responses), Mill Cottage (four responses), Roseville, Walnut Lodge, Tryndehayes, Trenders Hall, Millview, Nos. 1, 2, 3, 4 Heron Stream Place, South Barn

MaCalmont Drive; MaCalmont Manor

Kingley Smith Solicitors

No address (5 letters)

- 3.8 In the main the comments received can be summarised as follows:
- Increase of traffic would be detrimental to the road
 - Outlook of Pyne Cottage and Mill Cottage would be impacted
 - Increase of noise
 - Increase of flood issues
 - Encroachment of the countryside
 - Out of keeping with the character of the street
 - Lighting would impact residents
 - Harm to wildlife
 - Contrary to national policy relating to gypsy and traveller sites

- Would result in on street parking
- Detrimental impact on listed building
- Impact of noise and air pollution on residents because of the gypsy lifestyle
- Disregard for the planning system as the stables are unlawful
- Would create a precedent for future traveller development
- The applicant is not of gypsy and traveller status
- Insufficient infrastructure to deal with foul drainage
- Does not amount to very special circumstances and would be contrary to green belt policy
- Impact on overhead lines

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, H7, T8

Allocations Plan 2014 – GT1

Development Management Plan (December 2014) Policy DM1, DM5, 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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