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**13/00392/FUL****LAND WEST OF PUMPING STATION, WATERY LANE,  
RAWRETH****RETENTION OF ONE PITCH GYPSY/TRAVELLER SITE ON  
A PERMANENT OR TEMPORARY BASIS AND CONSTRUCT  
REVISED ACCESS**

**APPLICANT: MS. P EVERETT**

**ZONING: METROPOLITAN GREEN BELT**

**PARISH: RAWRETH**

**WARD: DOWNHALL AND RAWRETH**

**1 PLANNING APPLICATION DETAILS****THE SITE**

- 1.1 This application is to a site on the northern side of Watery Lane 300m west of the junction made with Hullbridge Road. The site is irregular in shape, but broadly triangular, being contained by hedgerows and the skewing alignment of the water course to the north. The site measures 2.42 ha. On the site are a number of structures that have been provided to serve the use of the site for the keeping of animals. The site is predominantly grassland.
- 1.2 One of the buildings present on the site is a mobile home located on the western boundary of the site against the hedgerow and trees on the field boundary.

**2 THE PROPOSAL**

- 2.1 The proposal is to retain the site as a two pitch gypsy/traveller site and provide works to improve the existing access onto Watery Lane. The definition of a pitch would allow one static mobile home, one touring caravan and day room for each pitch. In this case the application would seek to retain the static mobile home and touring caravan used by the applicant but also provide a site for one additional touring caravan for visitors.
- 2.2 The applicant advises that the site is intentionally not serviced with utilities and has been developed to be low impact. Electricity is provided through a generator, water is collected for the animals on site and drinking water is

brought onto the site in bottles. There is a compost toilet and mobile toilet on the site.

- 2.3 The applicant states that consent is sought for a minimum period of two years whilst the Council consults on proposals for site allocations. If alternative accommodation should not be possible to identify for the applicant, a permanent consent is sought with an improved access.
- 2.4 The site is accessed from an access cut through the hedge and earthen banking onto the low lying part of Watery Lane. The land given over to the access has been graded back. The applicant states that in the previous history the existing access has been considered to be sub-standard. The applicant regards the existing access as safe. Currently the access meets the angle of Watery Lane at an acute angle, favouring entrance and exits to the east, towards the settlement of Hullbridge. It is very difficult to turn west from the development, particularly if towing a trailer or caravan.
- 2.5 The proposal shows a revised access arrangement whereby the access road within the site would be realigned to meet the highway at a right angle with a widened area within the site meeting the existing access width, improving the ability for vehicles to enter and turn into the site entrance. Officers anticipate that this revised arrangement would require the grading back of the land so that the site access would have a suitable gradient for vehicles entering and leaving the site.

### **3 RELEVANT PLANNING HISTORY**

- 3.1 The planning history for this site is combined with planning enforcement history. Officers understand that the applicant took ownership of the site in January 2006 after the farm holding of which it was formerly part was divided up and partly sold. The existing field access to the west of that now existing has been closed and a new access to which this application relates was formed.
- 3.2 Application No. 06/00098/COU  
  
New Access Onto Watery Lane And The Change Of Use Of Land For The Keeping Of Horses  
  
Permission refused on 10 April 2006 for reasons of the creation of a second and dangerous access, lacking visibility and capability to turn right.
- 3.3 An enforcement notice was served on 1 December 2006 against the formation of the access and driveway and the change in the use of the land to a mixed use for the keeping of horses, including the siting and storage of various items/structures including dog kennels, stables, field shelter, two trailer type caravans, metal lorry container, mobile home, fencing and trailers.

- 3.4 An appeal against that enforcement notice was dismissed on 19 October 2007, but subject to the period for compliance being varied from three to four months. An appeal was made to the high court by the applicant, but later withdrawn.
- 3.5 In the period up to 26 October 2009 enforcement officers sought compliance with the enforcement notice. On 26 October 2009 the following application was made.
- 3.6 Application No. 09/00553/COU
- 3.7 Change Of Use Of Mobile Home From Rest Room To Use As A Dwelling And Construct Revised Access.
- 3.8 Permission refused on 16 December 2009 for Green Belt reasons, increased traffic, lack of pedestrian footway, additional access, mobile home located within Flood Zone 2 and fails to provide adequate flood risk assessment.
- 3.9 An appeal against the refused application was dismissed on 1 February 2011, the inspector mainly concluding that the need for gypsy sites and the need for a settled base for the applicant did not sufficiently outweigh the harm from inappropriate development and the potential flooding harm.
- 3.10 On 11 April 2010 an application to retain the mobile home, hardstanding and access was made under application 10/00312/FUL, but which was invalidly made and subsequently withdrawn.

#### **4 CONSULTATIONS AND REPRESENTATIONS**

##### **Environment Agency**

- 4.1 Advises that the proposal is deemed to be low risk. However, we have the following advice regarding foul water disposal at this site.
- 4.2 If connection to the mains is not feasible, a package treatment plant or septic tank is the preferable method of foul water disposal. This follows the hierarchy set out in Circular 03/99 and in our Pollution Prevention Guidelines 4 (PPG4) document. If use of these systems is also shown to be unfeasible, then a compost toilet may be acceptable, as proposed.
- 4.3 The system will need to be designed and sized appropriately to the anticipated loading. However, as this development is a single gypsy pitch, the loading should be minimal. If there is a liquid discharge from the toilet, an environmental permit may be required from us.

**Natural England**

- 4.4 Advises that the site is in close proximity to the Crouch and Roach Estuaries Site of Special Scientific Interest (SSSI). Natural England is satisfied that the proposed development will not damage or destroy interest features for which the site is notified. Advises therefore that the SSSI does not represent a constraint in determining this application and raises no objection in this respect.
- 4.5 Has not assessed the application for impacts upon protected species and refers to standing advice published by Natural England.
- 4.6 Advises that the application may provide an opportunity for biodiversity enhancement such as the incorporation of roosting opportunities for bats and the installation of bird nesting boxes.

**4.7 Rochford District Council Head of Environmental Services**

No adverse comments to make, subject to Standard Informative SI 16 (Control of Nuisances) being attached to any consent granted.

**5 MATERIAL PLANNING CONSIDERATIONS****5.1 Green Belt Issue and the Need for Gypsy and Traveller Sites**

- 5.2 The site is located within an area allocated Metropolitan Green Belt in the saved Rochford District Replacement Local Plan (2006).
- 5.3 Paragraph 14 to “Planning Policy for Traveller Sites” (DCLG March 2012) states the provision of a gypsy and traveller site, whether temporary or permanent, is inappropriate development within the Green Belt. The provision of traveller sites are not listed amongst the exceptions at paragraphs 89 and 90 to the National Planning Policy Framework. Paragraph 15 to “Planning Policy for Traveller Sites” (DCLG March 2012) generally argues for specific allocation of sites through the plan making process.
- 5.4 The applicant must therefore demonstrate that very special circumstances exist to outweigh the harm to the Green Belt and any other harm, for permission to be granted.
- 5.5 The applicant is a Romany gypsy who still leads a nomadic way of life. If the application were refused the applicant would become homeless if required to vacate the site.
- 5.6 The Council’s Local Development Framework Allocations Submission Document (April 2013) is at examination stage and carries significant weight. Policy GT1 allocates a site to the west of Rayleigh of 1ha and in excess of the minimum 0.75ha considered necessary to provide the 15 pitches to which the Council is committed under Policy H7 to the adopted Core Strategy. It is part

of the wider release of a greater site included for employment uses under Policy NEL2. The Council's preference is for a municipal site so that pitches can be offered in a simple and straightforward way through municipal site management.

- 5.7 The western Rayleigh site is not yet available and has yet to be agreed, receive planning permission and be laid out ready for occupation. It is required to be in place by 2018, some five years time. Since the previous appeal, the consideration of sites as part of the Local Development Framework process has been the subject of examination. The preliminary findings of the inspector have made no reference to the western Rayleigh site. As such there is now increased certainty that there will be no change to that planned allocation to the site coming forward as part of the planned release of the site from the Green Belt within the timescale of 2018.
- 5.8 The gypsy status of the applicant did not feature in the earlier planning history. The applicant's gypsy status became a consideration in the most recent appeal to application 09/00553/COU. In dismissing the appeal the inspector gave weight to the unmet need for gypsy and traveller sites but also that the Secretary of State had announced the intention of Government to cancel the circular current at the time which advocated giving weight to unmet demand. The inspector went on to conclude that the formation of the access had required extensive earth works that had removed substantial parts of the earth banking and hedgerow, taken together with the various structures on the site resulting in harm to the openness of that part of the Green Belt in which the site is situated. At the time of that previous application, the siting of the mobile home at issue fell within an area identified as Flood Zone 2 and at medium risk of flooding. The inspector went on to dismiss the appeal due to flood risk issues and the harm to openness that would result from the further access improvements that would be required.
- 5.9 Since that previous appeal decision the Secretary of State has revised national planning policy for traveller sites (March 2012). The lack of sites being available continues to be a material consideration rather than ceasing to be a consideration at the time the inspector was considering the matters then before her.
- 5.10 The circumstances concerning a lack of alternative sites favours the granting of permission for a further temporary period of five years until such time as the site in west Rayleigh would be available. A permission for five years would allow the applicant to continue residence at the site until a better site would become available through the planned allocations. The need for a visitor space is not, however, proven. Officers consider that if permission is to be granted, it should be on the basis of the site as currently used and personal to the applicant. Any further access alterations would still cause additional harm to the Green Belt, as acknowledged by the previous inspector. The

requirement for sites now carries more significant weight than previously before the inspector in considering the most recent appeal.

- 5.11 The current application shows that the new access would include new planting along the access drive edge. This planting would be essential to offset the wider impact of the re-grading of the land, but what is unclear is the extent of visibility splay that may be required causing further harm by way of hedge removal. It would be necessary that the access alterations feature revised landscaping to any sight line edge required by the County Highway Authority before the access could be considered acceptable in the Green Belt. These matters can, however, be the subject of conditions to the grant of permission.

### **Access and Highway Issues**

- 5.12 The consultation with the County Highway Authority is outstanding at the time of writing and there are no indications at present as to their consideration of the matter. Clearly it has been established in the most recent appeal that it is possible by a condition to the grant of permission to revise the access so that it can be improved to provide access in both easterly and westerly directions and that the required visibility would necessitate the part removal of the existing hedge and the banking. District officers expect the county officers to advise on the acceptability of this arrangement and the need for any further conditions to the grant of permission.
- 5.13 Whilst the applicant would be able to improve the access into the site, there would continue to be no pedestrian refuge or footway making alternative access to the site other than by private car difficult. This matter cannot be overcome, but was not given significant weight by the inspector in the most recent appeal.

### **Other Matters**

- 5.14 Part of the site falls within Flood Zone 1 and part within Flood Zone 2. In the previous appeal, the inspector concluded that part of the flooding issues arose from poor drainage and maintenance of the surrounding land and the low lying nature of Watery Lane.
- 5.15 The existing mobile home and the applicant's main residence would be located on that part of the site considered to be in Flood Zone 1 and at the least risk from flooding. No details have been provided to show the location of the proposed additional caravan for visitors. That being the case, as the additional caravan is to be for visitors, the additional caravan would not be classed as being highly vulnerable and therefore would be moved in the event of increased flooding risk. If the additional caravan for visitors were to be located on that part of the site in Flood Zone 2 and at increased risk, the applicant would only need to provide a flood evacuation plan and be included

within the Environment Agency flood warning scheme. The Environment Agency has no objection to raise against the proposal.

## 6 CONCLUSION

- 6.1 The site is located within the Metropolitan Green Belt and has a history associated with use for the purposes of a traveller site despite the present use being unauthorised and the subject of an enforcement notice. Given the absence of alternative sites being currently available, the site occupier would, if permission were refused and required to vacate the site, become homeless.
- 6.2 The Council's Local Development Framework Allocations Submission Document (April 2013) is at examination stage and there is greater certainty that a site will become available though the planned release of sites in a planned way. Accordingly, the applicant should be given a temporary and personal permission to reflect the availability of a site being available through the planned process.
- 6.3 The previous history has established the revised access arrangements to be generally acceptable, subject to detailed conditions to secure adequate re-grading and visibility splays. The consequent effect upon the character of the Green Belt would need to be mitigated by landscaping to the access edges.
- 6.4 Taking into account the lack of alternative sites for gypsies and travellers and the sites coming forward through the planned process there is justification for a five year temporary and personal permission until the end of 2018. Should the County Highway Authority find the access arrangement acceptable, temporary consent for five years until the site allocation is realised should be granted.

## 7 RECOMMENDATION

- 7.1 Subject to no objection from the County Highway Authority and in view of the outstanding consultation period expiring on 23 November 2013, it is proposed that the Committee **RESOLVES**
- 7.2 To delegate to the Head of Planning and Transportation to determine the application, including the following heads of conditions:-
  - (1) Temporary permission expiring on 31 December 2018.
  - (2) Limitation to use as one pitch comprising one static mobile home and one touring caravan for the applicant.
  - (3) Submission of details for the re-grading and landscaping of the access revisions.
  - (4) Implementation of the landscaping and access revisions.

- (5) Provision of visibility splays.
- (6) Provision of landscaping/planting to revised visibility splay edges.



Shaun Scrutton

Head of Planning and Transportation

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### **Relevant Development Plan Policies and Proposals**

Rochford District Council Local Development Framework Core Strategy Adopted  
Version December 2011

H7, GB1.

Rochford District Council Local Development Framework Allocations Submission  
Document (November 2012)

GT1, NEL2.

Rochford District Replacement Local Plan (2006) as saved by Direction of the  
Secretary of State for Communities and Local Government and dated 5th June 2009  
in exercise of the power conferred by paragraph 1(3) of schedule 8 to the Planning  
and Compulsory Purchase Act 2004.

HP6.

Parking Standards: Design and Good Practice Supplementary Planning Document  
adopted December 2010.

Standard C3

For further information please contact Mike Stranks on:-

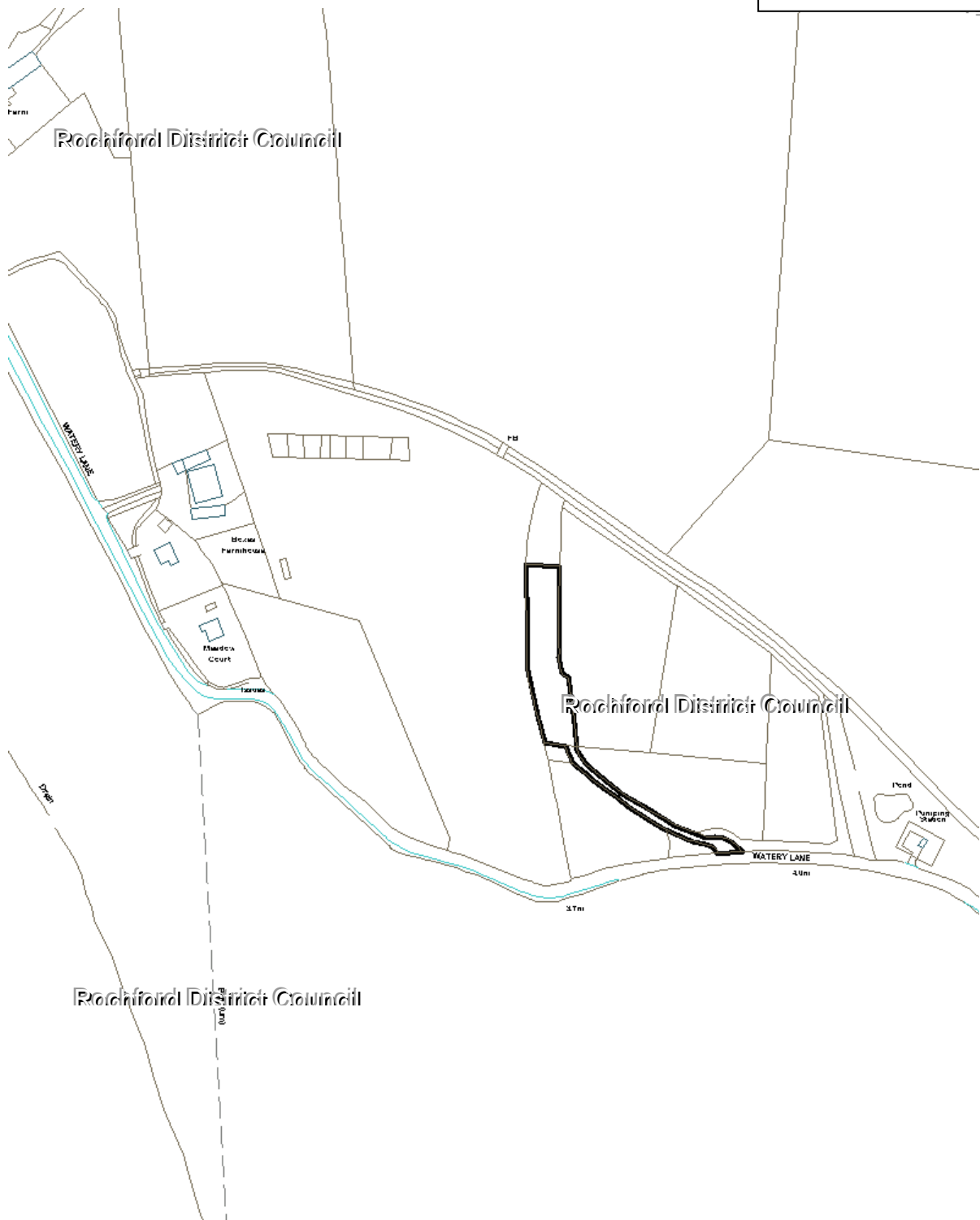
Phone: 01702 318092

Email: [mike.stranks@rochford.gov.uk](mailto:mike.stranks@rochford.gov.uk)

If you would like this report in large print, Braille or another  
language please contact 01702 318111.



13/00392/FUL



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