

**12/00748/FUL**

**AT SITE OF THE PEAR TREE, 750 NEW PARK ROAD HOCKLEY**

**APPLICATION TO VARY CONDITIONS 2, 3 AND 6 OF APPEAL  
DECISION 09/00173/FUL AS FOLLOWS;**

**CONDITION 2: THE OCCUPATION OF THE SITE HEREBY  
PERMITTED SHALL BE CARRIED ON ONLY BY LILLIAN ADAMS,  
FELIX, HANNA, MILEY AND MARGARET DORAN AND KIZZY  
CONNORS AND THEIR RESIDENT DEPENDANTS.**

**CONDITION 3: NOTWITHSTANDING THE DESCRIPTION OF  
DEVELOPMENT, NO MORE THAN FIVE CARAVANS, AS DEFINED  
IN THE CARAVAN SITES AND CONTROL OF DEVELOPMENT ACT  
1960 AND THE CARAVAN SITES ACT 1968 (OF WHICH NO MORE  
THAN ONE SHALL BE A STATIC CARAVAN OR MOBILE HOME)  
SHALL BE STATIONED ON THE SITE AT ANY TIME.**

**CONDITION 6: THAT CONDITION 6 BE REMOVED AND  
PERMANENT PERMISSION GRANTED OR THAT THE PERMISSION  
BE RENEWED FOR A FURTHER TEMPORARY PERIOD.**

**APPLICANT: MRS H DORAN**

**ZONING: METROPOLITAN GREEN BELT**

**PARISH: ASHINGDON**

**WARD: ASHINGDON AND CANEWDON**

## **1 PLANNING APPLICATION DETAILS**

- 1.1 The site to which this application relates is currently in use for residential occupation by a Gypsy family. Following a lengthy site history (set out in section 3 below) permission was granted by the Secretary of State for the occupation of the site on a personal basis (condition 2) by Felix and Hanna Doran and Kizzy Connors and their resident dependants; the consent related to a temporary consent for three caravans to include not more than one static or mobile home (condition 3) and for a limited period of two years expiring on 8 December 2012 (condition 6).
- 1.2 The current application was originally submitted to extend the scope of condition 2 to include the applicant's son and his wife Miley and Margaret

Doran to live on the site; to increase the number of caravans allowed by condition 3 to four to accommodate Miley and Margaret Doran; and to remove condition 6, which limited the use to a temporary period in favour of a permanent consent. If the Council could not support this, the applicant would reluctantly accept a further temporary period of consent.

- 1.3 On 11 February 2013 the applicant revised the scope of condition 2 to include her mother Lillian Adams who has moved to be with her daughter following illness. Condition 3 has consequently been revised to include a fifth caravan to accommodate Mrs Adams. These revisions are the subject of a revised consultation with neighbours and the Ashingdon Parish Council expiring on 25 February. The outstanding site notice period expires on 5 March.
- 1.4 In support of the application the applicant sets out that there have been a number of changes since the grant of permission in December 2010 and set out below.

## **2 The Applicant's Case**

- 2.1 This is set under the sub headings:-

- Change in the applicant's personal circumstances;
- Prematurity;
- Policy;
- Primacy of the child; and
- Other considerations.

### **2.2 Change in the Applicant's Personal Circumstances**

- The applicant Mrs Hanna Doran has had another child Rhianna now aged 2 years old.
- The applicant's son Miley has married.
- Kizzy Connor has a son Gerry aged 17 months and who is awaiting an operation at Southend Hospital.
- Kizzy Connor has also been diagnosed with epilepsy and diabetes.
- Chardonney Connor aged 5 continues to be monitored at Southend Hospital for a heart problem.
- There are six adults and 8 children living on the site

### 2.3 Prematurity

- The applicant states that the Council has struggled to find alternative sites.
- The site being considered will also be taken from the Green Belt and as such definitional harm and loss of openness will be no less.
- The applicant states that the shortage of housing land has not prevented the Secretary of State from granting permission for an extensive housing development on Green Belt in Thurrock and which raises significant issues of equality due to inconsistent decision making.

### 2.4 Policy

- The provision of traveller sites has been brought more in line with that for housing. Whilst the option for a temporary permission remains, Councils are now expected to make their own assessments of need and to have a five year supply of available land. Unless the Council can claim that a site allocation document will be prepared and adopted by March 2013, the applicant argues that significant weight should be attached now to unmet need and the failure to have a five year supply of deliverable sites. The applicant argues that the figures for the provision of sites confirms that few new sites/pitches have been delivered.
- Policy H7 to the Council's adopted Core Strategy (December 2011) recognises the need for a minimum of 15 more pitches by 2018 but the applicant argues this was not informed by an up to date district based needs assessment. Instead Policy H7 is a criteria based policy, which fails to explain where sites should be located.
- The pre-submission A
- allocations document (November 2012) has been drafted but the site included is on degraded land unsuited for housing and next to a proposed employment area and proposed waste transfer station. The applicant questions how this site would comply with the requirements of policy H7 to the Core Strategy.

### 2.5 Primacy of the Child

- The applicant encloses a copy of the Supreme Court decision *ZH Tanzania v SOS for the Home Department* (2011), whilst concerning an immigration case, emphasises the substantial weight to be given by decision makers and public Authorities, in particular, to the needs of the child, which has since been given weight in the *Sedgemoor DC v M Hughes and others* (2012). The applicant states the duty on any public Authority to give consideration to the best interests of children to be equal

to the substantial weight to be given to definitional harm to inappropriate development in the Green Belt.

## 2.6 Other Considerations

- The applicant relies on the following material considerations:-
  - The gypsy traveller status of the applicant and her family and their personal need to be settled.
  - Unmet need for sites in this District and elsewhere in Essex.
  - Main aims of national policy set out in planning policy for traveller sites to encourage self provision and address the need to provide more sites in suitable places.
  - Failure of policy to identify sites that are developable and deliverable. Families should not be put to the trouble and expense of renewing permissions and that in this case the applicant had good reason to believe the issue would have been addressed by now.
  - The applicant considers that there is very good justification to renew consent either on a permanent basis or for another temporary period. Whilst the needs of the family have increased since the consideration of the previous appeal, the applicant considers there exists space on the site for all the caravans required. although some households would be living in small touring caravans making use of shared facilities.

## 3 THE SITE

- 3.1 This application is to a site on the western side of New Park Road 85m south of the junction made with Lower Road. The site is rectangular in shape, having a frontage of some 12m and depth of approximately 50m. The site is fully covered in a hard core and chippings surface. The site is contained within wall and fencing to the side and rear boundaries with a wall and gates to the front. A former stable building exists across the back of the site, which is occupied as a day room.
- 3.2 New Park Road is unmade. The area is generally part of sporadic plotland development located within the Green Belt. The site is adjoined on both sides by existing dwellings set a good distance back from the road in generous frontages. The site is opposite a meadow.
- 3.3 Four touring caravans are currently sited alongside the northern boundary of the site.

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**4 RELEVANT PLANNING HISTORY**

- 4.1 Prior to the current applicant moving onto the site around January 2008, the site had since June 2003 been occupied by a previous Gypsy family, resulting in the following history and enforcement background.
- 4.2 Application No. 03/00621/COU sought permission for the change of use of land to residential and stationing of one mobile home and was refused permission on August 2003 for Green Belt reasons.
- 4.3 Appeals against the refused Planning Permission and Enforcement Notice were dismissed as such, but the ground (g) appeal that the period of compliance for the enforcement notice falls short of what should reasonably be allowed; was allowed with the period for compliance extended to two years. This was due to uncertainty at the arrangements for providing gypsy and traveller sites within the District.
- 4.4 On the expiry of the enforcement period application No. 06/00338/FUL was made for the continuing use of the land for the stationing of a caravan for residential use, together with storage of second caravan and the retention of hardstanding, stables and existing ancillary buildings and fences. This application was refused permission on 14 June 2006 for Green Belt reasons and failure to demonstrate that alternative sites had been considered outside of the Green Belt. Permission was granted on appeal on 21 March 2007.
- 4.5 In allowing the appeal, the Inspector agreed the proposal to be inappropriate development within the Green Belt. The Inspector also noted that the wording of policy HP20 to the Council's adopted Local Plan accepted, that if applicants have first given consideration to non-Green Belt sites as required, a possibility of the loss of some openness would be implied from the consideration of Green Belt sites.
- 4.6 The site was cleared and vacated by the previous owner in March 2007 and in doing so the permission allowed in the appeal had lapsed.
- 4.7 The current applicant, also a gypsy, moved onto the site around January 2008 and submitted an application to site on a permanent basis one mobile home and two touring caravans. This application reference 08/00275/FUL was granted planning permission on 20 November 2008, subject to conditions requiring details to be provided for the foul and surface water drainage of the site, limitation to the proposed one mobile home and two touring caravans and the clearance of the site following the cessation of occupation.
- 4.8 Condition 1 of the permission limited the site use to the applicant and her resident dependants and for a temporary period as set out below.

1. The occupation of the site hereby permitted shall be limited to the family of the applicant, Mrs Hanna Doran and her resident dependants, and for a temporary period expiring on 28 October 2011.

REASON: In view of the very special circumstances of the applicant and the shortage of sites available to provide for the unmet demand for gypsy site provision within the District, the review of site provision in the Council's emerging Local Development Framework and given the restricted size of the site.

- 4.9 An application was made (application reference 09/00173/FUL to vary that permission by removing condition 1, which limited the site personally to the applicant, her resident dependants and for a temporary period. The effect would have been to grant permanent permission for the use of the site for residential purposes for one mobile home and two touring caravans. The application was refused permission on 28 May 2009 for Green Belt reasons.
- 4.10 In the subsequent appeal the inspector recommended that consent be granted, subject to conditions that the site be occupied by no other persons other than gypsies and travellers, only by the applicant, with limitations upon the size of vehicles, and the number of caravans being limited to three, including one static mobile home.
- 4.11 The Secretary of State, however, partially disagreed with the inspector's findings and instead granted planning permission on a further temporary basis. A high court challenge by the applicant against the Secretary of State's decision was dismissed on 8 May 2012.

## **5 CONSULTATIONS AND REPRESENTATIONS**

### **Ashingdon Parish Council**

- 5.1 Following public objections raised at the Parish Council meeting, Members agreed that:-
- 5.2 Condition 2 should only allow the site to be occupied by Felix, Hanna, Miley and Margaret Doran and Kizzy Connors and their resident dependants.
- 5.3 Condition 3 should remain as that already decided by the Secretary of State, that no more than 3 caravans shall be stationed on the site at any time.
- 5.4 Condition 6 should state that no permanent permission be granted.

### **Essex County Council Highways**

- 5.5 No objections to raise.

**Neighbour Representations**

- 5.6 Five letters have been received from the following addresses:-
- 5.7 New Park Road: "Abbey Grove" "Oaklands" "Linden Lea" "Holy Oak" and one unaddressed resident from Lower Road.
- 5.8 And which in the main make the following comments and objections:-
- Not in support of this application as no benefit has been brought to the area, only problems for the residents of New Park Road.
  - Wholeheartedly object to this planning application.
  - Permission had already been given to one family to live here and the quality of the neighbourhood regarding litter and noise has deteriorated with the extended family and friends joining them on the land. It appears this request is to officially house the new residents who currently reside there unofficially and surely should, under current laws, be evicted.
  - If this application is successful it is clear on past behaviour that new members of the family and friends will arrive unofficially and request to stay permanently as has already happened.
  - This, in effect, is developing a traveller caravan site, which can (and has in other areas, eg, Dale Park) deteriorated the standard of living and property value of the nearby residents.
  - If these people actually need living accommodation then please house them under the local Council rules not allow planning regulations to be flouted here as alternative measures.
  - Having seen the supporting documentation from other residents I cannot see that the Council should pass this application as the standard of living for the prospective residents is low and that of local residents has already been affected.
  - From a purely personal perspective, I do not understand why I am refused house modifications of one room, which clearly does not affect local amenities for others, my own living standards, or that of my neighbours, when this application is being seriously considered.
  - From a purely financial perspective passing this planning application will mean that more families will arrive to live on this site and the value of my property will further deteriorate, which, as pensioners in this time of

austerity, we cannot afford.

- The applicant appeals time and time again even though they are told to evacuate by the courts they ignore them and get away with it. Surely this has to be stopped as this continuous writing of letters and costing the Authorities money that could be spent elsewhere.
- Unfair that a person who has lived down this road all their life and has a plot he has lived on for 18 years has been told to get off whereas others not born in England and obviously have other alternative places to reside and come and go as they please.
- The applicants Hannah and Felix Doran do not reside at the site but make token visits. It is totally let out to others.
- The residents there at present were not there for a few months but came back when Hannah Doran started an appeal.
- The road is full of litter, which we never experienced before. Litter and other material is thrown into our gardens and we have to constantly go around picking it up.
- The site has only a small septic tank, which is constantly full and rarely emptied. The portaloo empties directly onto our garden.
- All the waste water from the wash room and washing machine floods the adjoining garden. These areas are prone to mosquitos.
- The children come onto our property.
- Kizzy Connors and Mrs Doran have each given our address to Southend Hospital and Tesco as theirs.
- Constant shouting and screaming at children, Dogs barking and running at neighbours when trying to walk down the road. Have noticed today that there are now 5 caravans on this very small site.
- The last temporary permission was only for 3 caravans and the current application is asking for 4 caravans.
- The current position with 5 caravans along with the building used for accommodation is a major over-development of this very small Green Belt site.
- There are far too many people for the site's inadequate facilities to support.



- Myself and my family wholeheartedly object to this planning permission going ahead. The majority of people rule objection nearly every time this situation occurs; how many times do we have to write to confirm time and again how we feel?
  - With the upmost respect, we object to this application.
- 5.9 A petition has also been received with **106** signatures from persons living or working in the vicinity of the site and stating the following objections:-
- Condition 2:
- The current occupation is much too dense for this small plot
- There are now more people living on this site than were originally permitted.
- With large extended families who come and go it is unlikely that the occupancy will ever conform to condition 2.
- The sewerage facilities are insufficient for the current occupancy and are not adequate for the site's usage.
- People living nearby are affected by noisy dogs, shouting, litter, sewerage problems and excess traffic.
- Too many people living on this small plot in the Green Belt.
- 5.10 Condition 3:
- The original temporary occupancy of the land was increased in December 2010 to no more than three caravans of which only one could be a static caravan or mobile home and this is all that would be allowed to be stationed on this site at any one time.
- The old stable building has been converted for accommodation and is also utilised as living accommodation on the site.
- A fourth caravan has now been moved onto the site in contravention of condition 3 and this should not be allowed to remain.
- 5.11 Condition 6:
- 5.12 This restricted the use to a temporary period which ran out 9/12/12.
- 5.13 The previous temporary permission should not have its conditions exceeded.
- Other reasons for objections cited on the petition.

- 5.14 Permanent permission should not ever be given for this site for the type of use that it currently has under the expired permission.
- 5.15 The history of the site should not influence the present decision to be made. The site is very overcrowded and the present family/occupants are far too many for this small site. There is considerable over-development.
- 5.16 The proposal continues to be inappropriate within the Green Belt, as stated by the inspector in March 2007.
- 5.17 This narrow densely packed plot lies between much larger plots where the accommodation is set back from the road in well maintained gardens, which are in keeping with the country area.
- 5.18 The four white caravans are obtrusive and are not in keeping with local Green Belt and also they have an adverse effect on the neighbourhood.
- 5.19 The road is unmade and not in good condition with rubbish often dumped.
- 5.20 Access into New Park Road from Lower Road is very dangerous for vehicles trying to turn right coming from Hullbridge.
- 5.21 This site has no future as a permanent traveller site and as soon as possible it should be restored to its original useage.

## **6 MATERIAL PLANNING CONSIDERATIONS**

### **Green Belt Issue and Very Special Circumstances**

- 6.1 The site is located within an area of Metropolitan Green Belt as identified in the Council's saved Local Plan (2006). The Council accepts the applicant to have gypsy status.
- 6.2 The permission to which the variation of the conditions is sought lapsed on 9 December 2012. The current application to vary conditions to that permission was received just before the expiry of the consent. Paragraph 14 to "Planning Policy for traveller sites" (DCLG March 2012) states the provision of gypsy and traveller sites, whether temporary or permanent, are 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.
- 6.3 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.

- 6.4 In the previous appeal, the inspector noted that there were eight children then living on the site including those with special educational needs and the health care needs of two children and Kizzy Connors. However, the inspector concluded these circumstances did not necessitate continued occupation of the site, but rather favoured the need for a permanent and settled base, which the site would provide.
- 6.5 The Secretary of State disagreed with the inspector on this issue, arguing that permission for a permanent site should not be granted ahead of the consideration of site allocations and instead granted permission for a further temporary period. The Secretary of State did not share the inspector's pessimism with regard to a delay by the Council in its ability to bring forward a permanent site, but considered that in any case that matter could be more appropriately considered towards the end of the temporary consent period. This can be better considered now in view of the commitment to the site at western Rayleigh in the pre-submissions document and to which Policy GT1 to the Rochford District Council Local Development Framework Allocations Submission Document (November 2012) relates.
- 6.6 Since the appeal, two young children have been born into the extended family on the site. The proposed variation of condition 2 seeks to include Miley Doran and his wife who, unlike younger children, are no longer dependant on the applicant. Similarly, the applicant's mother Mrs Adams has received surgery in Middlesbrough so there is not the continuity in care at issue but instead the desire for family support. The applicant states that it would be possible for Mrs Adams to share a caravan, but she would prefer her own caravan and hence the need for five caravans on the site.
- 6.7 The need for a settled base would favour the granting of a further temporary consent under the terms of the previous application, but the proposed widening of the scope of condition 2 to include Miley Doran and his wife, together with Mrs Adams, has not been justified by any circumstances that can be considered very special. Both the inspector and Secretary of State agreed previously that the circumstances were such that they did not necessitate continued occupation of the site. Both agreed that the absence of sites was the significant issue, but disagreeing over whether the site should be made permanent as a consequence of no sites being available.
- 6.8 The Council's Local Development Framework Allocations Submission Document (November 2012) is at pre-submission stage and carries greater weight than the circumstances around the discussion document taken into account in 2010. 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.

- 6.9 The site is not 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. The lack of sites being available continues to be a material consideration to be given substantial weight. These circumstances favour the granting of permission for a further temporary period, maybe up to five years to allow this to be reassessed and until such time as the site would be available. It is the case that since the previous decision, there is progress in the identification of a site such that greater weight can now be given on the reliance of that site becoming available in the future.
- 6.10 Whilst the previous inspector considered the presence of three caravans to be small in scale with limited harm to the Green Belt, the current proposal for five caravans would have a much greater visual impact that would increase the dominance of the site relative to the undeveloped character of the sporadic open frontages to adjoining properties. The site is on elevated ground. The proposed variation in condition 3 would present an unrelieved concentration of bulky and bright coloured caravans along the northern boundary in immediate contrast to the deep front garden areas of the adjoining properties. The proposed variation in conditions would increase the concentration of caravans and persons living on the site, with the effect that the site would no longer appear small in scale and consequently harmful to the character and appearance of this part of the Green Belt. Given the impact of the variation of condition 3 and the lack of justification for the increase in the number of persons present on the site, the proposal, as set out in the terms of this current application, should not be granted a permanent or temporary consent as proposed by the variation to condition 6.

#### **Other Matters**

- 6.11 Core Strategy Policy H7 makes the commitment to the provision of 15 pitches (each pitch comprising one static and one touring caravan) by 2018 (five years time). The proposal is located within a fragile area of plotland vulnerable to development pressure on the western edge of the built up area of Ashingdon and Hockley.
- 6.12 A number of representations have been made by third parties and Ashingdon Parish Council. Both the previous inspector and the Secretary of State agreed that matters of noise and nuisance and nuisance from dogs are matters for which there are other powers available to address these issues. Furthermore, the increase in traffic and vehicle movements would not be material given the various uses also in the site vicinity.
- 6.13 The site would provide accommodation and wider benefits of providing a settled base for the schooling of children and easier and regular access to

doctors and other health services. The site is also located within flood zone 1 at the least risk of flooding. In this respect the proposal complies with policy H7 to the Core Strategy (2011)

- 6.14 The site has not given rise to issues of obstruction or on-street parking to the unmade road serving the site. There is no objection raised to the proposal by the County Highway Authority.

## **7 CONCLUSION**

- 7.1 The proposal seeks to vary a permission that has now lapsed. Whilst there is a case for the granting of permission for the continued use of the site under the terms previously granted and for a temporary period until the site allocation becomes available, the terms of the current application would effectively increase the concentration of people and caravans on the site such that the visual harm to the Green Belt would detract from the open frontages of the plotland character of the site locality. In this way, the increased density of caravans should be resisted. No very special circumstances have been put forward by the applicant that outweigh the increased harm to the appearance of the Green Belt that would arise.

## **8 RECOMMENDATION**

- 8.1 That the Committee resolves to **REFUSE** planning permission for the following reason:-

The proposal constitutes inappropriate development in the Metropolitan Green Belt, as identified in the saved Rochford District Council Replacement Local Plan (2006). The proposed increase in number of persons residing on the site necessitating further caravans would present an over developed, unrelieved concentration of bulky and bright coloured caravans within a small plot. This is in contrast to the relatively undeveloped wide and deep front garden areas of the adjoining properties and detracting from the sporadic appearance of this rural plotland character and openness to the Green Belt in which the site is situated.

### **REASON REFUSED WITH WAY FORWARD**

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal. Unfortunately, it has not been possible to resolve those matters within the timescale allocated for the determination of this planning application. However, the Local Planning Authority has clearly set out, within its report, the basis of the reasons for refusal, which may lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is willing to provide pre-application advice in respect of any future

application for a revised development in line with the Council's pre-application advice service.



Shaun Scrutton

Head of Planning and Transportation

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

H7, GB1 of the Rochford District Council Local Development Framework Core Strategy Adopted Version December 2011

GT1, NEL2 of the Rochford District Council Local Development Framework Allocations submission Document (November 2012)

HP6 of the 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.

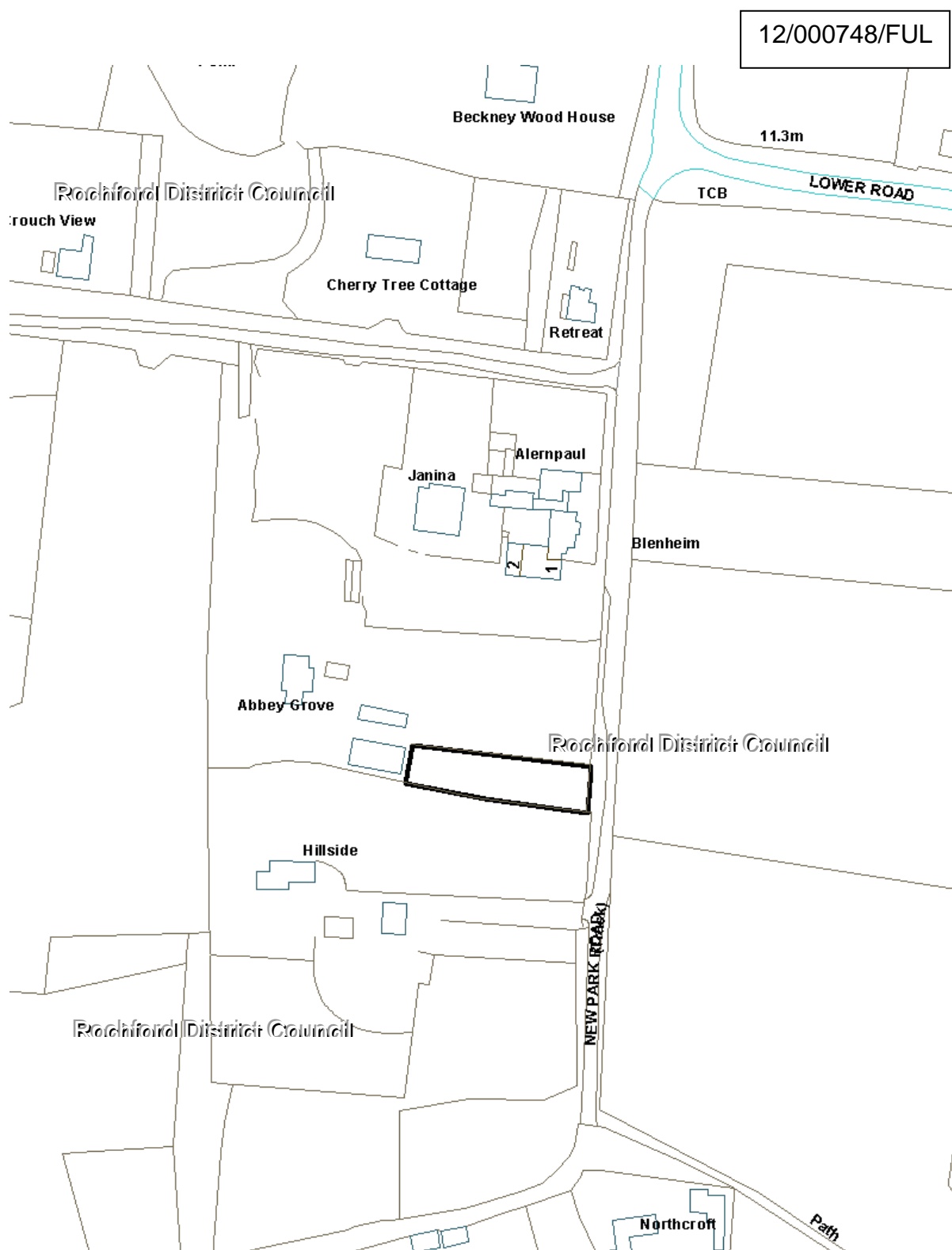
Standard C3 of the Parking Standards: Design and Good Practice Supplementary Planning Document adopted December 2010.

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