

**APPLICATION REFERRED FROM THE WEEKLY LIST****WEEKLY LIST NO. 1436****17/01240/FUL****APPLICATION FOR USE OF LAND AS A TRAVELLER SITE  
COMPRISING 2 MOBILE HOMES, DAY ROOM AND  
TOURING CARAVANS TOGETHER WITH ACCESS,  
HARDSTANDING AND CESSPIT****1 DETAILS OF REFERRAL**

- 1.1 This item was referred from Weekly List No. 1436 requiring notification to the Assistant Director, Planning & Regeneration Services by 1.00 pm on Wednesday 8th August 2018 with any applications being referred to this meeting of the Committee. Cllr C S Stanley referred this item on the grounds that the site is smaller than claimed, there is no drinking water or foul drainage serving the site, the road is privately maintained and the occupiers are trespassing and the site is not registered.
- 1.2 The item that was referred is attached at appendix 1, as it appeared in the Weekly List.
- 1.3 A plan showing the application site is attached at appendix 2.

**2 RECOMMENDATION**

- 2.1 It is proposed that the Committee **RESOLVES**

To determine the application, having considered all the evidence.

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

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**Appendix 1**

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Application No :	17/01240/FUL	Zoning : Metropolitan Green Belt
Case Officer	Mr Mike Stranks	
Parish :	Rayleigh Town Council	
Ward :	Downhall And Rawreth	
Location :	Land Opposite 2 Goldsmith Drive Rayleigh	
Proposal :	Use of land as a Traveller Site comprising 2 mobile homes, day room and touring caravans together with access, hardstanding and cesspit	

**SITE AND PROPOSAL**

1. This is a part retrospective application for the proposed use of land at Goldsmith Drive for a Gypsy/Traveller pitch comprising two mobile homes, the construction of a separate day room building, along with the siting of two touring caravans, with associated hardstanding. The application was revised on 23rd July 2018 to omit land originally shown to form part of the site but not in the ownership of the applicant.
2. The site is located in the Metropolitan Green Belt, and Flood Zone 1.
3. At the time that the site visit was conducted (19th July 2018), the applicant had laid down extensive hardstanding. The hardstanding consists of a driveway to the western side of the site leading to an area of hardstanding at the rear section of the site with an approximate area of 217 square metres. The applicants had erected a wooden close boarded fence with a height of approximately 1.8 metres, which runs across the site, effectively dividing the site in two. Wooden ranch fencing posts had also been constructed forward of the close boarded fencing and adjacent to the driveway which has been constructed. At the time of the site visit, workmen were installing wooden low-level entrance gates to the driveway entrance at the front of the site. Three touring caravans have been parked on the site, along with a diesel generator and two porta-loos. The applicant has also installed a 'cesspit', its approximate location is marked on the submitted site block plan. At the time of the site visit, there were no mobile homes present on the site, and the proposed day room has of yet not been constructed.
4. The proposed day room would be located towards the rear of the site, adjacent to the proposed touring caravans and north of the proposed mobile homes. The proposed building would accommodate a toilet and utility area. The day room would include entrance doors to the front and rear, along with

four windows. The building would have a length 9.2 metres and a width of 4.6 metres, and would be topped with a dual pitched roof with a ridge height of 4 metres.

5. Towards the front of the site, in-front of the 1.8 metre fence, the applicant has stated that the area of land would be left undeveloped.
6. The proposed occupants of the site would be the applicant , his wife and their two children. Additional proposed occupants are the applicant's son and his wife.
7. The application site is located on Goldsmith Drive, an unmade road located in an area of scattered plot-land development. Opposite the application site, is a semi-detached pair of dwellings, No.1 and No.2 Goldsmith Drive. The southern boundary of the site is marked by an existing hedge-row, which would be retained. To the south of this existing hedgerow is a bridleway, public right of way running parallel to the rear boundary of the site, beyond this track is open fields. To the East of the site is an apparently vacant plot of land, and to the West of the site is a poly-tunnel that appears to be in a state of disuse.
8. The application is associated with enforcement case 18/00101/COU\_B relating to the change of use of land to a traveller site, laying of hard standing and creation of new access. [Implementation of application ref:17/01240/FUL - application not yet determined]. A temporary 28 day stop notice has been issued by the Council which came into effect on 19th July 2018. This notice prevents the applicant from carrying out any further operational development in the short term.
9. The application site is located in close proximity (approximately 105 metres to the East) to another traveller site, 'Land adjacent Woodville, Hullbridge Road', which was granted a temporary 5 year planning permission under appeal decision APP/B1550/W/17/3174424 (Planning Application 15/00448/FUL) on 28th February 2018. This nearby site is considered to be of a similar scale to the site proposed in this application. That proposal given a temporary consent for at this nearby site included; a replacement stable building, one mobile home, one touring caravan and a utility/dayroom.

#### Relevant planning history

10. 16/01084/FUL - REFUSED ON APPEAL: Construct stable and tack room hard standing and turning area and use land for grazing of horses

#### REASONS FOR REFUSAL:

- 1) The appeal scheme would be contrary to the development plan taken as a whole and material considerations do not indicate planning permission should be forthcoming in spite of this. Accordingly, for the reasons given above, and having regard to all other matters raised, I conclude the appeal should be dismissed.
11. 16/00679/FUL - REFUSED: Proposed Stable Building Housing 2 Stalls and a Tack Room. New Gated Access Road From Goldsmith Drive with Parking Area and Turning Circle and Fenced off Areas to Create a Holding Pen and Grazing Area

**REASONS FOR REFUSAL:**

- 1) The application, by way of the proposed grazing area of some 0.17 hectares, would fall considerably short of the 0.8 hectares which would be required for 2 stables by part (ii) of Policy DM15 of the Rochford District Council Development Management Plan 2014. Whilst the site benefits from having immediately accessible bridleways which could provide an alternative to the open space provided, it is not considered that this would be enough to counteract the significant shortfall of the grazing area provided, which would provide less than a quarter of the grazing area required for two stables. This application would therefore be contrary to part (ii) of Policy DM15 of the Rochford District Council Development Management Plan 2014.
  - 2) The proposal, by way of the significant amount of hard standing proposed, would be considered visually intrusive and detrimental to the relatively open and undeveloped plotland character of the Green Belt area and to the existing landscape in which the site is located, contrary to part (vi) of Policy DM15 of the Rochford District Council Development Management Plan 2014 and Policy GB1 of the Rochford District Council Core Strategy 2011.
  - 3) No ecological survey has been submitted to support this application and as such it has not been possible to accurately assess the impact of this development on protected species, contrary to Policy DM27 of the Rochford District Council Development Management Plan and the interests of those species more generally.
12. 13/00118/COU - REFUSED: Change of use of land to form site for travelling show people

**REASONS FOR REFUSAL:**

- 1) The saved Rochford District Replacement Local Plan (2006) shows the site to be within the Metropolitan Green Belt. Within the Green Belt planning permission will not be given except in very special circumstances for the construction of new buildings or for the change of use or extension of existing buildings (other than reasonable

extensions to existing buildings, as defined in Policies R2 and R5 of the saved Local Plan). The proposal is considered to be inappropriate development contrary to Green Belt Policy. Any development that is permitted shall be of a scale, design and siting such that the appearance of the countryside is not impaired.

- 2) The proposal does not come into any of the excepted categories and, if allowed, would develop an existing open and undeveloped site with an existing tall grass covering with development in the form of touring caravans, mobile homes, commercial vehicle storage and maintenance and a hardstanding area to some 56% of the site coverage, which taking all these features together, would detract visually from the relative undeveloped plotland appearance and character of that part of the Green Belt in which the site would be situated and would introduce noise and commercial repairs to show men's equipment, detracting from the amenity enjoyed to this location.
  - 3) The proposal would be served by a 117m length of unmade plotland road to a width of 5m without footway and a poor surface. As such, the site would not enjoy a direct access onto a metalled highway surface and the proposal would instead encourage further commercial traffic onto the sub standard highway network to the detriment of the safety to pedestrians and other highway users and the flow of traffic.
13. PA/12/00056/PREAPP - Pre-application inquiry for use of land as a site for travelling show people
14. 11/00741/COU - REFUSED: Change Use of Land to Form Site for Travelling Showpeople.

#### REASONS FOR REFUSAL:

- 1) The saved Rochford District Replacement Local Plan (2006) shows the site to be within the Metropolitan Green Belt. Within the Green Belt, planning permission will not be given, except in very special circumstances, for the construction of new buildings or for the change of use or extension of existing buildings (other than reasonable extensions to existing buildings, as defined in Policies R2 and R5 of the saved Local Plan). The proposal is considered to be inappropriate development contrary to Green Belt Policy. Any development which is permitted shall be of a scale design and siting such that the appearance of the countryside is not impaired.
- 2) The proposal does not come into any of the excepted categories and if allowed would develop an existing open and undeveloped site with an existing tall grass covering with development in the form of touring caravans, mobile homes, commercial vehicle storage and maintenance and a hardstanding area to some 56% of the site coverage which taking all these features together would detract

visually from the relative undeveloped plotland appearance and character of that part of the Green Belt in which the site would be situated and would introduce noise and commercial repairs to showmen's equipment detracting from the amenity enjoyed to this location.

- 3) The proposal would be served by a 117m length of unmade plotland road to a width of 5m without footway and a poor surface. As such the site would not enjoy a direct access onto a metalled highway surface and the proposal would instead encourage further commercial traffic onto the substandard highway network to the detriment of the safety to pedestrians and other highway users and the flow of traffic.

15. 08/00173/FUL - PERMITTED: Construct polytunnel for plant propagation

#### Material Considerations

16. The main issues relating to this application are as follows:

- The potential impact of the proposal on Green Belt openness, the character of the countryside and whether the proposal would constitute inappropriate development in the Green Belt, contrary to the policies contained within the Council's Local Plan and the National Planning Policy Framework (2018) (NPPF).
- The potential impact of the proposal on the character of the appeal site and neighbour amenity.
- Other material considerations which may need to be weighed up. These would include; the need for and provision of accommodation for gypsies and travellers in the area; the personal circumstances of the proposed occupiers including the best interests of the children; and consideration of relevant duties and rights
- If the proposal is considered inappropriate development, whether any harm by reason if inappropriateness would be clearly outweighed by other material considerations so as to amount to the very special circumstances required to justify the scheme in the Green Belt.

#### Previous refused applications on the site

17. As detailed above (paragraphs 10 - 15), several other applications have been refused planning permission for the site over the years. However, in each previous case, the circumstances are different from this application currently under consideration. Some of the key difference are listed below:
- 11/00741/COU - REFUSED: Change Use of Land to Form Site for Travelling Showpeople: - A key difference with this application is that it involved the storing on site of relatively large commercial vehicles and rides associated with fairground operation.

- 13/00118/COU - REFUSED: Change of use of land to form site for travelling show people: - As with the previous application, a key difference is that the proposal involved the storing as well as repair facilities for commercial vehicles. The current proposal does not include the storing of large commercial vehicles.
- 16/00679/FUL - REFUSED: Proposed Stable Building Housing 2 Stalls and a Tack Room. New Gated Access Road From Goldsmith Drive with Parking Area and Turning Circle and Fenced off Areas to Create a Holding Pen and Grazing Area: - A key difference with this application is that the proposal was for the stabling and grazing of animals and did not include the provision of gypsy/traveller accommodation. The current application does not propose an area for the grazing of animals.
- 16/01084/FUL - REFUSED ON APPEAL: Construct stable and tack room hard standing and turning area and use land for grazing of horses: - Again the key differences are that the proposal involved the grazing of animals on site, and did not include the provision of gypsy/traveller accommodation.

#### Policy context

18. The NPPF states that substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In addition, the National Planning Policy for Traveller Sites (August 2015) document, which sits alongside the NPPF, considers inappropriate development in the Green Belt to be harmful and should not be approved, except in very special circumstances. It also states that Traveller sites (temporary or permanent) in the Green Belt are 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.
19. The government attaches great importance to maintaining Green Belts with the aim of preventing urban sprawl and keeping land permanently open.
20. The National Planning Policy for Traveller Sites document states the following in relation to the supply of traveller sites:

"If a local planning authority 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 temporary planning permission. The exception is where the proposal is on land designated 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 (or the Broads)."

21. The National Planning Policy for Traveller Sites (2015) requires that in addition to the above, when making 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
22. Policy H7 contained within the Council's Core Strategy (2011) document states that the Council will allocate 15 pitches for gypsy and traveller accommodation by 2018. Policy GT1 of the Council's Allocations Document (2014) allocates a site of 1 hectare (removed from the Green Belt) for gypsy and traveller accommodation in the Western part of the district. 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.

#### Impact on the character and openness of the Green Belt

23. To the Southern (rear) boundary of the site, an existing hedgerow would remain, which would shield the majority of the proposed development from view from the adjacent public right of way, which runs parallel to the southern end of the site. The proposed development would be concentrated towards the southern end of the site, with the Northern end of the site not containing any structures. The proposed close boarded fence and hedging subdividing the site it is considered would screen much of the proposed development from view from Goldsmith Drive. It is considered that the factors detailed above go some way in mitigating the potential adverse impact of the proposal on the character and openness of the Green Belt.
24. Nevertheless, the proposal comprises the introduction of a substantial area of hardstanding, the erection of fencing, the construction of a permanent 'day room' structure and the siting of two mobile homes and two touring caravans. The development would replace what was essentially an undeveloped field, and as such the proposal is considered to constitute a significant loss in the openness of the Green Belt contrary to policy GB1 and contrary to the NPPF. The loss of an open field to residential development that the development



would entail, would it is considered represent a harmful encroachment into the Green Belt, again contrary to policy GB1 and the NPPF.

#### Impact on the character and appearance of the area

25. Policy H of the National Planning Policy for Traveller Sites document states that potential traveller sites should be well planned and soft landscaped, that positively enhance the environment and increase 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.
26. At the time the site visit was undertaken low level fencing was being erected to the front of the site, along with a low level entrance gate. These developments, given their height would appear to respect the predominantly open character of Goldsmith Drive. As stated previously, the proposal leaves the majority of the front section of the site undeveloped, with the exception of the proposed driveway. This it is considered would help soften the impact of the proposal on the character of the area. The proposed 1.8 metre high fencing running across the site, along with the proposed hedging would likely shield the majority of the proposed development from view from Goldsmith Drive. Although this may assist in lessening the visual impact of the proposal, this aspect of the proposal it is considered is contrary to policy H, enclosing the site, isolating the site from the rest of the community.
27. No details have been submitted relating to the appearance of the proposed mobile homes on the site. However, mobile homes tend to be of a standard appearance, and as such a condition relating to the appearance of the proposed mobile homes is not considered to be necessary. The proposed day room is not considered to be excessive in terms of its scale, similar in terms of its external dimensions to nearby buildings. No details have been submitted however, relating to the materials used on the exterior of the proposed building. It is therefore considered necessary to impose a condition requiring details to be submitted relating to the external finish of the proposed building, in the interests of visual amenity.
28. Extensive details relating to the proposed landscaping on the site have not been submitted, however these details can be considered by way of a planning condition to the grant of permission.

#### Impact on neighbour amenity

29. Given the nature of the proposal and the substantial distance of the proposal to any neighbouring residential dwellings, it is not considered that the proposal would have a significant detrimental impact on the amenity of the occupants of neighbouring dwellings, and would not give rise to any unacceptable overlooking or overshadowing.

#### Evidence of nomadic habit of life

30. Gypsies and travellers are defined in Annex 1 to the government's Planning Policy for Traveller Sites document as persons of a nomadic habit of life whatever their race or origin. The agent has stated that the applicants travel for work on landscaping and garden maintenance and are often away from any base for weeks at a time. In the absence of any evidence to the contrary, it is considered that the applicants meet the definition of gypsy/travellers.

#### Unauthorised development

31. The applicant has moved onto the site and undertook building operations without receiving the necessary planning permission, as government policy dictates, this should be considered as a material consideration weighing against the applicant. However, the agent for the applicant has stated that their client had become frustrated at the lack of progress on the application submitted prior to Christmas 2017 and as he had nowhere else to set up a permanent base, he had no alternative but to move onto the site with his family. Due to these factors, it is considered that the retrospective nature of the application should be given limited weight.

#### Need for sites

32. Policy B of the PPTS 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.
33. 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 (Ref: Policy GT1) in the Council's Allocations Plan. However, the possible development of this site has encountered various difficulties, including tipping of waste, issues of land ownership and highway access. Development has yet to commence, 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. In addition, the Council has commissioned an up-to-date assessment of the District's needs. The Rochford District Council Gypsy and Traveller Accommodation Assessment Need Summary Report June 2017, by Opinion Research Services (the GTAA), has identified a total need for 19 additional pitches by 2033. This updates the previous requirement to Policy H7 of the Core Strategy.
34. Paragraph 27 of the government issued Planning Policy for Traveller Site document states the following: If a local planning authority 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 temporary planning permission. The exception is where the proposal is on land designated as Green Belt. However, appeal decisions reference APP/B1550/C/16/3162651 (relating to a proposed traveller site at the Pumping Station, Watery Lane - allowed 2nd November 2017) and APP/B1550/W/17/3174424 (relating to a traveller site at Land adjacent to Woodville, Hullbridge Road - allowed 28th February 2018) state 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.

35. In referring to the need for sites in the district, the Planning Inspector in appeal reference: APP/B1550/C/16/3162651 (decision date: 02 November 2017) in relation to the traveller site at the Pumping Station, Watery Lane Rawreth, the inspector stated the following in regards to the lack of traveller site provision in the district:
36. 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.
37. Although the above statement was made in November last year, the situation in terms of available traveller sites in the district has not changed since then. Given that no other sites are currently available in the district for travellers, given the Councils statutory duty to provide traveller sites and given the above stated conclusion of a Planning Inspector, it follows that the application site should be considered for approval, despite being located on Green Belt land.
38. In weighing up the considerations in the appeal for the site adjacent "Woodville" Hullbridge Road (APP/B1550/W/17/3174424 (decision date: 28 February 2018) (near to the current application site) the inspector was critical that that development was inappropriate and also significantly harmful to the character and openness of the Green Belt. That inspector acknowledged that the Government Guidance expressly excluded the absence of a five year supply of sites to favour Green Belt locations. However, the inspector gave weight also to the significant shortfall in the provision of sites as an unmet failing of the current local plan that could not be addressed until the adoption of a future local plan programmed for the year 2020. Allowing for that, for sites to receive planning permission and to be available for occupation, the

inspector went on to grant a personal permission and for a five year temporary period.

39. The above two recent appeal decisions are material to the current application in that they are determined by a higher authority and against the current circumstances and must therefore be given significant weight.

#### Personal circumstances

40. Having regard to the best interests of the children currently living on the site is a primary material consideration in this case, as stipulated in the National Planning Policy for Traveller sites document. A priority is to ensure that the children have a settled base from which to access health services and education. Currently there is one child living on the site, with the possibility of more in the future.
41. The agent for the applicant has stated that the applicant wants to ensure that his son's children have proper access to education. As it stands however, there would be a single child living at the site, and the applicant has stated on the submitted Human Rights Questionnaire (which has been redacted to protect the applicants privacy) that it is their intention to give the children home tutoring. Nevertheless, in accordance with the Government's Planning Practice Guidance, the permanent and secure home that the proposal would provide the child is given significant weight. The applicant has stated that they are in the process of applying to join a local doctor's surgery. If the application were refused, and given the lack of available sites in the district, the applicants would likely no longer have a settled base, and would find it difficult to access health services. This would clearly be detrimental to the best interests of the child, and as such should be given significant weight in reaching a decision on this application.

#### Highways

42. Essex County Council Highways have raised no concerns relating to the potential impact of the proposal on the road network. The proposal includes a substantial area of hardstanding, demonstrating that sufficient off-street car parking would be provided.

#### Sustainable development

43. Core Strategy Policy H7 explains how consideration of allocations will include promotion of peaceful and integrated co-existence between the site and the local community, access to health services, school attendance, providing a settled base that reduces long-distance travelling and possible environmental damage at alternative sites, and the need to direct sites away from areas at high risk of flooding. These criteria are broadly consistent with the advice of the PPTS and several are reflected as features of the site, as it is considered that the site provides reasonably good access to local services. It is also

considered that the site provides reasonable access to public transport, as the nearby Hullbridge Road is a bus route with a good regular service.

44. Relative to the particular economic, social and environmental dimensions of sustainable development defined by the NPPF, the scheme would undoubtedly provide significant and much needed social benefits as described for the occupants. Environmentally however, the proposal would carry a very high cost through definitional harm to the Green Belt by reason of inappropriateness, and by reason of loss of openness, and encroachment. It would therefore be difficult to conclude that the proposal would constitute sustainable development. Clearance of the site has already taken place, and as such any potential damage to natural habitat has already occurred, and as such it is considered that the impact of the proposal on nature conservation should be given limited weight in determining this application.

#### Other matters

45. The agent has confirmed that the applicant has installed a 'cesspit' on site, which will require emptying on a regular basis. If the application were approved, a condition can be imposed requiring that details be submitted to the Council for approval relating to foul water drainage on the site.
46. A neighbouring resident has asserted that the applicant was evicted from a site in the London Borough of Havering. However, having consulted the enforcement notice related to this case, dated 17 March 2014, it is not considered possible to confirm that the applicants are listed on this enforcement notice, given inconsistencies relating to the names listed on this enforcement notice, and the lack of details relating to their dates of birth. In addition, this enforcement notice is not considered to be relevant to this application, as the applicants have since occupied two further sites in different locations.
47. Since the application was submitted, it was identified that the plans included an area of land not in the applicant's ownership. This was brought to the attention of the agent for the applicant, who has submitted revised plans, which now correctly depict the site boundaries in the applicants ownership. These revised plans also include the approximate location of the 'Cess pit'.

#### Representations:

##### 48. ESSEX COUNTY COUNCIL HIGHWAYS

Advise that from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following condition:

The public's rights and ease of passage over bridleway no. 83 in Rayleigh shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of the public on the definitive right of way and accessibility in accordance with Policies DM1 and DM11.

49. RAYLEIGH TOWN COUNCIL

Object to the application due to the site being located on Green Belt land.

Neighbour representations:

50. 18 letters have been received from the occupants of the following properties:

51. Goldsmith Drive: 12 (2 letters) "The Nest" "Glenross" "Goldsmith Paddocks" "McCalmont Manor" (3 Letters), "The Nook" (2 letters) ,

52. Maine Crescent: 14. ,

53. Maple Drive: "Pengelly"

54. Milton Hall Close: 15.

55. Montefiore Avenue: "Farmside Cottage" (3 letters) "Southview"

56. and which in the main make the following comments and objections;

- The proposed development would occupy a portion of a neighbours land which they do not own. Furthermore, the proposed development would render the remainder of their plot unusable, as access would be impossible.
- On Saturday 14 July 2018 the applicant moved onto the Green Belt field that he owns prior to any planning decision. He has installed 3 touring caravans with accompanying vehicles. A Planning Enforcement Notice has been issued to stop any further engineering works - Enforcement Notice has been ignored by the applicant as works carried on.
- Hedgerow around the site has been significantly demolished with no concern for nesting birds or local wildlife.
- The Green Belt field has now mostly been covered in rubble and road planings used as a dressing. Approx ½ the site is under rubble, approx. 1800 sq mtr (without ability to measure this could be more)
- Without planning the applicant says he has installed a septic tank. These are now generally not recommended by the EA or RDC for new installations in this area due to heavy clay; a Klargestor or similar sewage plant are acceptable.
- 2016 Change of use for stable building and tack room and hard standing 16/01084/FUL.

Recommended for Approval RDC Planning Officers

### Refused by Councillors at Development Committee Meeting

Planning Appeal APP/B1550/W/17/3169836. Not defended or attended by persons from RDC Planning Dept - as noted in his report by the Government Inspector "The Council has not provided an appeal statement". We are appalled that after the planning officers had recommended this application for approval they did not furnish the Government Inspector with a clear Appeal Statement. The neighbours sent statements and information heavily defending the reason to refuse the Appeal.

Government Inspector upheld neighbours objections.

### Appeal refused 11 July 2017

- Reason for contacting RDC Planning Development Committee regarding planning application 17/01240/FUL
- We understand that this application will be before the Development Committee on Thursday 23 August. We would like to make the following case that the planning officers and Planning Committee Councillors should mark this application for refusal.
- The applicant is not a resident of Rochford nor has any connections with the area. We have been informed the applicant has been living with his family on an illegal traveller site, Havering where he and others, including Travellers (who are currently living on an illegal traveller site Pudsey Hall Lane, Canewdon) have been receiving Enforcement Orders since 2001.
- Have Council checked that the applicant meets the required government definition of Traveller?
- Briefing Papers October 2017 (incorporated in Rochford District Council Gypsy and
- Traveller Accommodation Assessment)
- "In September 2014 the coalition Government published, Consultation: planning and travellers, which proposes to change the definition of "traveller" for planning related purposes so that it would exclude those who have permanently ceased from travelling. This change came into force from August 2015 following a revised version of Planning policy for traveller sites being issued. Another change now makes intentional occupation of land without planning permission a material consideration in any retrospective planning application for that site." "Change of definition  
The Government has changed the definition of "traveller" for planning related purposes so that it would exclude those who have permanently ceased from travelling. In the consultation response to the changes the Government said that it believed "it is fair that if someone has given up travelling permanently then applications for planning permission should be considered as they are for the settled community within national planning policy rather than Planning Policy for Traveller Sites."

If a traveller intentionally moves onto a site prior to gaining planning permission it would be a material consideration in any retrospective planning application for that site.

The Briefing Paper says :

"For the avoidance of doubt, this does not mean that retrospective applications should be automatically refused, but rather failure to seek permission in advance of occupation will count against the application. It will, the Government hopes, encourage all applicants to apply through the proper planning processes before occupying land and carrying out development".

- o "The Government has also changed planning policy to make clear that (subject to the best interests of the child), unmet need and personal

circumstances are unlikely to clearly outweigh harm to the Green Belt, and any other harm so as to establish very special circumstances. This change applies equally to the settled and traveller communities".

Because of this change in definition the applicant should be asked to furnish HMRC approved accounts as proof that he is still indeed a working traveller. A non traveller seeking similar permission would have to furnish such information. As planning policy dictates now that only travellers who work can seek any permissions this should be a fundamental requirement, verbal confirmation is open to abuse of colossal proportions.

- o Number of traveller sites within and including 400 metres of Goldsmith Drive Rayleigh total 5 (only 2 legal) - approx 15-20 people . If the application is approved we the settled residents of Goldsmith Drive become a minority - against Government guidelines. This area is becoming a 'go to place' for travellers to purchase Green Belt land.
- o Further to above traveller sites within ½ mile radius - 3 (1 legal) amounting to approx. 40 + people (detailed on RDC GTAA summary) there are in fact more pitches.
- o Briefing Paper 2. Temporary Sites Harm to the Green Belt

"In relation to temporary sites, in response to a PQ in October 2012 the Government made clear "where local planning authorities cannot demonstrate an up-to-date five year supply of deliverable traveller sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission for traveller sites." In effect, this means that if a local authority has not planned for permanent traveller sites, it may be more difficult for them to justify reasons for refusing planning applications for temporary pitches.

HOWEVER

"Following revisions to planning policy made in August 2015, this policy has now been changed for sites in land designated as Green Belt, sites protected under the Birds and Habitats Directives, sites designated as Sites of Special Scientific Interest, Local Green Space, an Area of Outstanding Natural Beauty, or within a National



Park or the Broads. The change now means that the absence of an up-to-date five year supply of deliverable sites would therefore no longer be a significant material consideration in favour of the grant of temporary permission for sites in these areas.

It would remain a material consideration, but its weight would be a matter for the decision taker".

It would appear that RDC planning officers appear to be adhering to old policy just because they have not demonstrated an up to date five year supply.....

Extract Government Briefing Paper October 2017

"In a further written ministerial statement to Parliament on 17 January 2014,

Communities and Local Government Minister, Brandon Lewis stated the

Government's position that unmet need for traveller sites and housing was unlikely to justify development in the green belt:

"I also noted the Secretary of State's policy position that unmet need, whether for traveller sites or for conventional housing, is unlikely to outweigh harm to the green belt and other harm to constitute the "very special circumstances" justifying inappropriate development in the green belt. The Secretary of State wishes to re-emphasise this policy point to both local planning authorities and planning inspectors as a material consideration in their planning decisions."

In response to Mr Justice Glibart judgement regarding the Secretary of States recovering of appeals planning Minister Brandon Lewis was quoted as saying:

"This government makes no apologies for seeking to safeguard green belt protection and trying to bring a sense of fair play to the planning system. The government's planning policy is clear that both temporary and permanent traveller sites are inappropriate development in the green belt. Today's judgement does not question that principle".

Communities and Local Government - Designing Gypsy and Traveller Sites Good Practice Guide

The application site does not reach the bare minimum as laid out in the above guide for Emergency Services access. If a problem was to occur and fatalities happened because of poor access, etc., following application's approval would RDC and planning officers be liable?

- o What is RDC's own evidence based basis for gypsy and traveller needs in their area?

"While the Government's March 2012 Planning policy for traveller sites does not provide targets for LPAs on the number of pitches required for gypsies and travellers, it does encourage LPAs to formulate their own evidence basis for gypsy and traveller needs in their area and then to use this evidence basis to set their own pitch targets in the area's local plan. Specifically, the planning policy directs".

Because of RDC's delay and procrastinating, problems have, and will continue, to occur. However the Briefing Paper appears to give a reason for planners to say no in our Green Belt area.

Michelins Farm has been discussed for so long with naive presumptions that businesses (to recoup revenue for RDC) will agree to be sited adjacent to a traveller site (businesses have pulled out of the scheme). Michelins Farm in the short term might appear to be an expensive site. However in the long term the money and time spent on inappropriate traveller site applications, appeals, meetings, etc., council tax payers money would be saved.

Land at the back of MAKRO is being earmarked for housing - could not some of this go for a traveller site?

Last and by no means least there is a traveller site on the A1245 which has been illegal for years. It is run cleanly, it is not in a residential area so does not impact on housing and the settled community. I do not think it is right that these travellers should be compensated for being illegal but if RDC made this site legal, with certain conditions, it would alleviate the damaging problem that we all have.

RDC waste so much time and money on meetings, planning man hours, going to Appeal, etc. One quick, non political decision could save so much.

- o In summary as the Briefing Paper says :

"Protecting the green belt In Planning Policy for Traveller Sites the Government has now changed the weight which can be given to any absence of a five year supply of permanent sites when deciding planning applications for temporary sites in land designated as Green Belt, sites protected under the Birds and Habitats Directives, sites designated as Sites of Special Scientific Interest, Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park or the Broads. The consultation explained, "the absence of an up-to date five year supply of deliverable sites would therefore no longer be a significant material consideration in favour of the grant of temporary permission for sites in these areas. It would remain a material consideration, but its weight would be a matter for the decision taker." The Government has also changed planning policy to make clear that (subject to the best interests of the child), unmet need and personal circumstances are unlikely to clearly outweigh harm to the Green Belt, and any other harm so as to establish very special circumstances. This change applies equally to the settled and traveller communities.

Another change to policy is intended to deal with the intentional unauthorised occupation of sites. From now on, if a site is intentionally occupied without planning permission, this would be a material consideration in any retrospective planning application for that site. For the avoidance of doubt, this does not mean that retrospective applications should be automatically refused, but rather failure to seek permission in advance of occupation will count against the application. It will, the Government hopes, encourage all applicants to apply through the proper planning processes before occupying land and carrying out development."

- o I appeal to you to Refuse this application. To approve this application would be a clear signal to all that by breaking and ignoring existing planning law can be rewarded
- o Previous applications were made by them and their family, which were refused on the basis that the area was Green Belt, and not eligible for non-agricultural development.
- o The new proposed site would be unfair on all surrounding residents.
- o The site has had a number of previous applications rejected, which were along similar lines. This latest application is by far the biggest, and from what they can see, the least appropriate.
- o The application appears to be lacking in detail, and the site they feel is unsuitable for the proposed purpose.
- o The site remains inadequately accessible, without appropriate drainage, without electricity and without water access.
- o Concerned over the impact on local wildlife, trees and shrubs.
- o Object to the vague nature of the applications, lack of information raises concerns over the potential use of the site, concerned that the site may become full of storage buildings and commercial vehicles.
- o Concerned over the potential works involved in connecting the site to the mains water supply.
- o Concerned over the visual impact of the proposal
- o This application for a travellers site is inappropriate development contrary to adopted Green Belt Policy. Travellers have already moved on to the site, in direct contravention of, and with total disregard for the law. There are no amenities on that site constituting a health hazard to the neighbouring properties.

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- o Goldsmith Drive is a private road, maintained by the residents and unsuitable for the use of 4x4 vehicles towing caravans. It is not stated on the application how many touring caravans they want to put on the site but the increase in traffic will be dangerous to the residents and the busy Hullbridge Road.
  - o The properties in this area have been greatly improved of recent years and the proposed travellers site will both significantly devalue the properties and the enjoyment of the people living here.
  - o Concerned that the Council are trying to turn the area into a gypsy area.
  - o The land is not liveable, they had their horse grazing there, and the ground is terrible.
  - o The proposal is on Green Belt land, and thus should be refused on these grounds, in line with other decisions made by the Council for applications in the area.
  - o The site is smaller than the indicated 0.38 hectares indicated on the submitted plans.
  - o The inclusion of a cesspit for foul drainage is not practical. The plot is subject to saturation. A requirement for a cesspit is a minimum of 4000 litres for 2 people. No mention on the application of how many people are to occupy the site, they estimate that a cesspit for the site would need to have a capacity of at least 84000 litres plus, which would be quite a feat of civil engineering. No details have been submitted as to where the proposed cess pit would be located, and concerned that the cesspit would pose a potential flood risk, and would be a major threat to lower lying properties adjacent to the site and the surrounding habitat.
  - o There is no water main in Goldsmith Drive, which would be an issue for the fire brigade.
  - o Any further traffic would be hazardous as Goldsmith Drive is an unadopted road, and there is not street lighting and access is very limited. The proposal would have an adverse impact on the properties immediately opposite and adjacent to the site.
  - o Concerned over the continual stream of similar applications being submitted in relation to this site.
  - o Is it right that an injunction has been raised against a plot of land in Chestnut Drive, protecting it against any future development or illegal occupation?
  - o The applicant and the applicant for the Pudsey Hall Lane sites are part of a group of travellers who were evicted from a site in Havering. Does this mean that there will be a large number of people living on the site as no number of touring caravans on the site has been indicated.

- o The address of the site is unclear and misleading.
- o Unclear where the proposed cesspit would be located, speculates that more than one cesspit would be needed.
- o Concerns over the impact of the proposal on traffic and parking.
- o Concerns over flood risk, as for drainage on the application form, the applicant has ticked soakaway. However, the area is heavy clay, so soakaway would be inefficient. The proposal could potentially increase flood risk to nearby properties.
- o A biodiversity reports should be included with the application.
- o The proposal would reduce house prices in the area, especially No.1 and No.2. Would RDC compensate residents for the loss in value of their properties?
- o All previous planning applications for the site have been refused, this should be taken into account.
- o The caravans have already moved on to the site which is in the green belt although previous applications have been refused. However, an application for the same type of development has been approved on neighbouring land and the area has insufficient infrastructure to support this further development which is gradually getting larger.
- o Mobile homes shown on submitted plans are approximately 10.5 metres by 3.5 metres, which is small by usual mobile home standards. If the application is approved, then the mobile home footprint shown must be adhered to.
- o Number of touring caravans not included on the application form
- o Incorrect site address given
- o Applicant has stated that there will be no new or altered vehicle access, whereas the submitted plans show in and out driveways on east and west boundaries, part of which will be located on land that the applicant doesn't own. Therefore the application is fundamentally flawed, inaccurate and must be rejected.
- o Details on vehicle parking need to be included in this application, as it stands any number of vehicles could be parked on the site.

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- o On south boundary of the site there is a drainage ditch which leads to a stream which runs adjacent to Hullbridge Road, in heavy rain fall, the water can find its way into many of the lakes and ponds which are near the site.
  - o Concerns over biodiversity and conservation impact of the proposal.
  - o Draws attention to a mature hedgerow and trees on the site.
  - o Applicant has indicated that the application should be considered under Certificate A, but the applicant does not own all of the land, does this null and void certificate A?
  - o Concerns over fire brigade access given the unmade nature of Goldsmith Drive, and the lack of a suitable fire hydrant. Refers to the Designing Gypsy and Traveller Sites - A Good Practice Guide document, and the section relating to Access for emergency vehicles.
  - o The locality of Goldsmith Drive has been over allocated Gypsy sites. Goldsmith Drive only contains 9 houses and there is no room for further development and the gypsy allocation has been exceeded for this area.
  - o Application 13/00118/COU and every other application on the site has been refused, because the site is unsuitable and always will be.
  - o The application will be extremely harmful to the openness of the Green Belt
  - o The proposal will result in a catastrophic reduction in property value in the area.
  - o The human rights of the occupant of 'Woodville' will be violated as he will no longer be able to enjoy his property.
  - o Having travellers move into this road would encroach on the privacy and wellbeing of its current residents, regarding the noise and mess usually found and left behind on these sites.
  - o The proposal is inappropriate development due to the anticipated increase in noise and traffic which would result in the loss of the open character of the Green Belt.
  - o Express doubts relating to the traveller status of the applicant
  - o The site opposite 2 Goldsmith Drive is within a area of Metropolitan Green Belt as defined in the Rochford District Local Development Framework and if permitted, this proposal would result in inappropriate development of the Green Belt. There are no special circumstances stated in this application to be taken into consideration.

- o The application does not state how many touring caravans they intend to put on the site. Goldsmith Drive is a narrow private road and not suitable for the increase of traffic that would result if this proposal is approved, with touring caravans towed by large vehicles using the road.
  - o There is also a potential danger to people using the bus stop at the junction of Goldsmith Drive and Hullbridge Road.
  - o The fact that travellers moved on to this site on Saturday 14th July and immediately put down hardstanding demonstrates their lack of regard for the regulations regarding their application process. To approve the application would enforce the impression that this behaviour is acceptable.
  - o References Government briefing paper dated October 2017, which states that unmet need in relation to traveller sites is unlikely to outweigh harm to the green belt.
  - o Quotes a government minister who states that permanent and temporary traveller sites are inappropriate development in the green belt.
57. It is considered that the proposal for permanent use would be contrary to the Green Belt policies contained within the Council's Local Plan, it is however considered that this finding would not be out-weighted by all other material considerations, including relevant provisions of the NPPF and the PPTS. As a result, it is recommended that a permanent permission be rejected, as the proposal is contrary to the relevant Green Belt policies.
58. Whilst a permanent occupation is not considered appropriate, there are considerations weighing in favour of the development such as the best interests of the children, and the lack of alternative traveller sites within the district. In light of these considerations and recent appeal decisions from the planning inspectorate, it is considered that a temporary five-year planning permission personal to the appellant is justified.
59. This recommendation is in accordance with recent appeal decisions relating to Green Belt Traveller sites in the district. The most recent of these appeal decisions relating to a nearby site in the district is Appeal Ref: APP/B1550/W/17/3174424 for a traveller site at: Land south of Woodville, Hullbridge Road, Rayleigh, Essex SS6 9QS. In a decision dated 28 February 2018, the Inspector stated the following:
- "Whilst a permanent occupation is not appropriate given that the proposal is contrary to the policies contained within the development plan, there are considerations weighing in favour of the development such that, when taken together, justify a temporary five-year planning permission personal to the appellant."

60. This recommendation is also in accordance with appeal decision reference: APP/B1550/C/16/3162651, dated 02 November 2017, relating to a proposed traveller site at The Pumping Station, Watery Lane, Rawreth, Essex SS11 8TN. In this case the Inspector concluded that the failure of the Council to provide traveller sites, and the relatively sustainable location of the site outweighed any potential harm to the Green Belt.
61. This recommendation also accords with recent appeal decisions relating to travellers sites in the Green Belt in other parts of the country. In appeal decision reference: APP/X2220/C/17/3180882, dated 23 April 2018, relating to a traveller site at: Land off Westmarsh Drove, Westmarsh, Canterbury CT3 2LP, the Inspector stated the Appeal should be allowed and granted temporary consent for 3 years despite concerns over flooding and the impact on the openness and character of the green belt. Temporary consent was granted due to there being no alternative sites for the travellers to go to, and in the best interests of the children living on the site.
62. In appeal decision Ref: APP/A0665/W/16/3161027, relating to a traveller site at Gethsemane Caravan Park, Chester Road, Dunham-on-the-Hill, Chester WA6 0JQ, dated 24th May 2018, in allowing an appeal for 3 traveller pitches on Green Belt land, the Planning Inspector stated that it was clear that the proposal was inappropriate development reducing openness and encroaching on countryside. However he noted the 5 year supply need for sites with none presently available. Significant weight was given to the failure of policy. He noted the low key development had already been present for a number of years, was not visually prominent and was quite well screened by existing vegetation and buildings. Weight was given to compelling documentary evidence of an appellant's medical condition and education of children. He noted PPTS where personal circumstances and unmet need were 'unlikely' to clearly outweigh Green Belt harm; finding 'unlikely' meant that exceptions might be expected and the personal needs of the Appellant's family were of such weight and importance as to clearly outweigh the harm to Green Belt.

In officers view the weight of recent appeal decisions as set out above and after the publication of Planning Policy for Traveller sites clearly supports that where there is unmet need and a clear policy failure in the delivery of sites, at least a temporary planning permission is justified notwithstanding the site location in the Green Belt.

APPROVE temporary permission of 5 years personal to applicant.

- 1 The development hereby permitted shall begin not later than three years from the date of this decision.



- 2 The use hereby permitted shall be carried on only by Martin and Mary O'Brien and William and Mary O' Brien their resident dependants, and shall be for a limited period being the period of five years from the date of this decision.
- 3 When the site ceases to be occupied by those persons named in Condition 2 above, or at the end of five years, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought on to the land, and 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.
- 4 The development hereby permitted shall be carried out in accordance with the following approved drawings: J002890/DD 01 REV A, J002890/DD 03 REV A, J002890/DD 02.
- 5 Prior to the commencement of any further works on the site, full details of the proposed landscaping of the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be based upon the general principles set out in application drawing and the submitted scheme shall include planting plans and schedules of plants (noting species, plant sizes and proposed numbers/densities) and a programme for maintenance. The development shall be implemented in accordance with such details as may be agreed.
- 6 Prior to the commencement of any further works on site, a plan shall be submitted to and approved in writing by the Local Planning Authority indicating the positions, design, materials and type of boundary treatment to be erected. Development shall be carried out in accordance with the approved details and maintained as approved.
- 7 Prior to the commencement of any further works on the site, details of a scheme of foul water drainage and of a programme for the works shall be submitted to and be approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with the details as may be approved.
- 8 Prior to the commencement of any further works on the site, details of any external lighting shall be submitted to and be approved in writing by the Local Planning Authority, and any lighting shall be implemented in accordance with such details as may be approved.
- 9 Prior to the commencement of any further works on the site, details of all external facing (including windows and doors) and roofing materials to be used on the proposed 'day room' building shall be submitted to and approved in writing by the Local Planning Authority. Such materials as may be agreed in writing by the Local Planning Authority, shall be those used in the development hereby permitted.

- 10 The public's rights and ease of passage over footpath number 83 shall be maintained free and unobstructed at all times.

**Relevant Development Plan Policies and Proposals:**

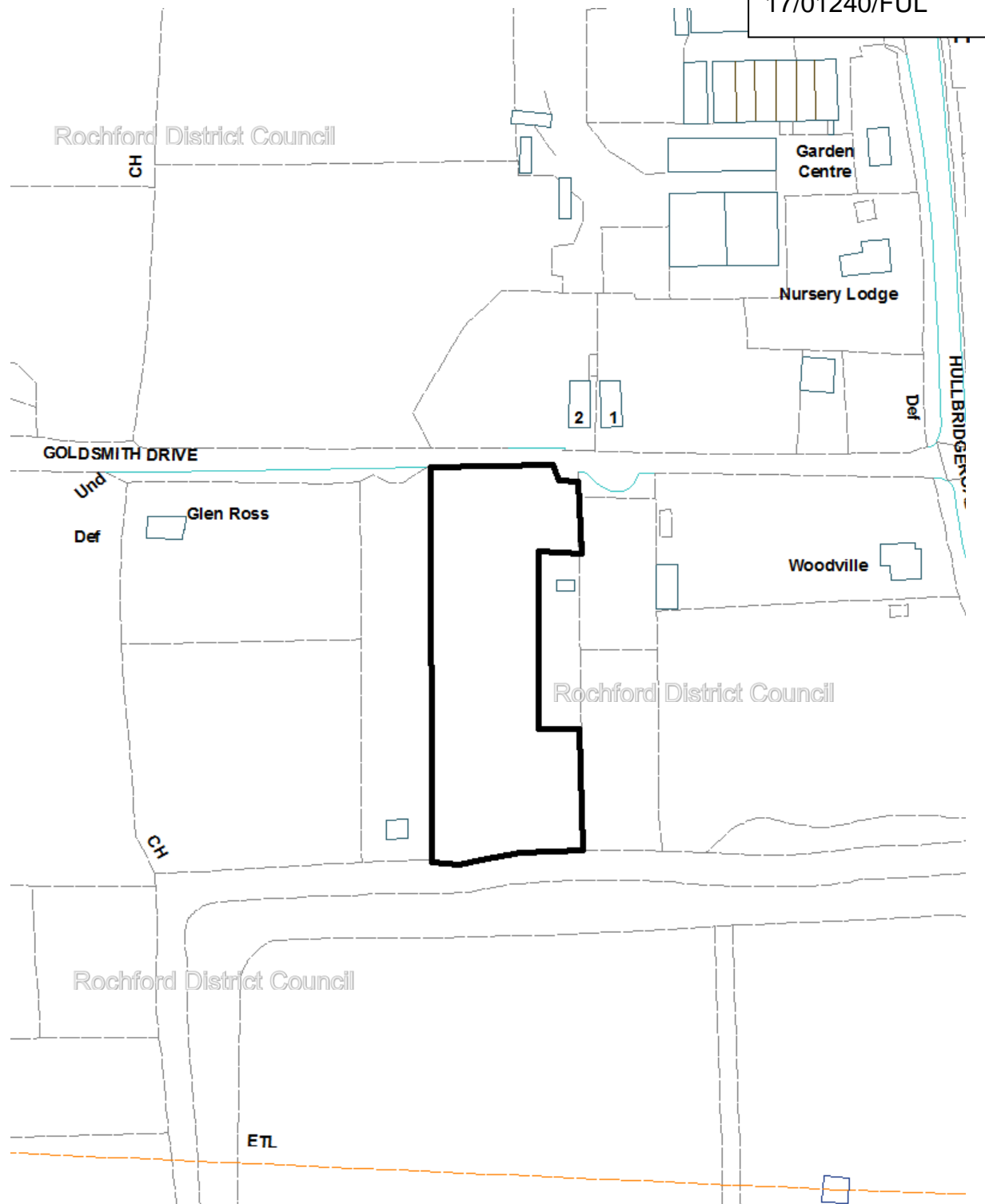
Policy GT1 of the Rochford District Council Allocations Plan 2014

Policy CP1, H7 and GB1 of the Rochford District Council Core Strategy 2011

Department for Communities and Local Government: Planning policy for traveller sites (August 2015)

National Planning Policy Framework

The local Ward Member(s) for the above application are Cllr R A Oatham, Cllr C Stanley, Cllr C Cannell



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