

committee agenda



Epping Forest District Council

District Development Control Committee Tuesday, 8th June, 2010

Place: Council Chamber, Civic Offices, High Street, Epping

Time: 7.30 pm

Democratic Services Officer: Simon Hill, The Office of the Chief Executive
Tel: 01992 564249 Email: shill@eppingforestdc.gov.uk

Members:

Councillors B Sandler (Chairman), G Mohindra (Vice-Chairman), A Boyce, Mrs P Brooks, K Chana, D Dodeja, C Finn, Mrs R Gadsby, A Green, J Hart, J Markham, Mrs M McEwen, R Morgan, H Ulkun and J Wyatt

A BRIEFING WILL BE HELD FOR THE CHAIRMAN, VICE-CHAIRMAN AND GROUP SPOKESPERSONS OF THE-COMMITTEE, AT 6.30 P.M. IN COMMITTEE ROOM 1 PRIOR TO THE MEETING

1. WEBCASTING INTRODUCTION

1. This meeting is to be webcast. Members are reminded of the need to activate their microphones before speaking.

2. The Chief Executive will read the following announcement:

"This meeting will be webcast live to the Internet and will be archived for later viewing. Copies of recordings may be made available on request.

By entering the chamber's lower seating area you consenting to becoming part of the webcast.

If you wish to avoid being filmed you should move to the public gallery or speak to the webcasting officer"

2. ADVICE TO PUBLIC AND SPEAKERS AT COUNCIL PLANNING SUBCOMMITTEES (Pages 5 - 6)

General advice to people attending the meeting is attached.

3. MINUTES (Pages 7 - 10)

To confirm the minutes of the last meeting of the Committee held on 6 April 2010 (attached).

4. APOLOGIES FOR ABSENCE

5. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

(Assistant to the Chief Executive) To report the appointment of any substitute members for the meeting.

6. DECLARATIONS OF INTEREST

(Assistant to the Chief Executive) To declare interests in any item on this agenda.

7. ANY OTHER BUSINESS

Section 100B(4)(b) of the Local Government Act 1972, together with paragraphs 6 and 25 of the Council Procedure Rules contained in the Constitution requires that the permission of the Chairman be obtained, after prior notice to the Chief Executive, before urgent business not specified in the agenda (including a supplementary agenda of which the statutory period of notice has been given) may be transacted.

In accordance with Operational Standing Order 6 (non-executive bodies), any item raised by a non-member shall require the support of a member of the Committee concerned and the Chairman of that Committee. Two weeks' notice of non-urgent items is required.

8. PLANNING APPLICATION EPF/2361/09 – REDEVELOPMENT OF LAND FORMERLY IN USE AS A GARDEN CENTRE TO PROVIDE 21 FLATS 80% OF WHICH WILL BE AFFORDABLE HOUSING. (REVISED APPLICATION) (Pages 11 - 26)

(Head of Planning and Economic Development) To consider the attached report.

9. PLANNING APPLICATION EPF/1893/09 -TYLERS CROSS NURSERY, EPPING ROAD, NAZEING, ESSEX EN9 2DH - SUBDIVISION OF EXISTING PITCH TO PROVIDE 2 ADDITIONAL PITCHES FOR GYPSY/TRAVELLER OCCUPATION AND USE OF EXISTING BUILDING AS DAY ROOM. (Pages 27 - 58)

(Head of Planning and Economic Development) To consider the attached report.

10. PLANNING APPLICATION EPF/1892/09 - SPRINGFIELDS, TYLERS CROSS NURSERY, EPPING ROAD, NAZEING, ESSEX EN9 2DH - VARIATION OF CONDITION 3 OF EPF/0960/98 (ALLOWED AT APPEAL) TO PERMIT ALTERATIONS TO PITCH BOUNDARIES AND SITING OF 2 ADDITIONAL MOBILE HOMES/CARAVANS FOR RESIDENTIAL PURPOSES FOR GYPSY FAMILY. (Pages 59 - 62)

(Head of Planning and Economic Development) To consider the attached report.

11. EXCLUSION OF PUBLIC AND PRESS

Exclusion: To consider whether, under Section 100(A)(4) of the Local Government Act 1972, the public and press should be excluded from the meeting for the items of business set out below on grounds that they will involve the likely disclosure of exempt information as defined in the following paragraph(s) of Part 1 of Schedule 12A of the Act (as amended) or are confidential under Section 100(A)(2):

Agenda Item No	Subject	Exempt Information Paragraph Number
Nil	Nil	Nil

The Local Government (Access to Information) (Variation) Order 2006, which came into effect on 1 March 2006, requires the Council to consider whether maintaining the exemption listed above outweighs the potential public interest in disclosing the information. Any member who considers that this test should be applied to any currently exempted matter on this agenda should contact the proper officer at least 24 hours prior to the meeting.

Confidential Items Commencement: Paragraph 9 of the Council Procedure Rules contained in the Constitution require:

- (1) All business of the Council requiring to be transacted in the presence of the press and public to be completed by 10.00 p.m. at the latest.
- (2) At the time appointed under (1) above, the Chairman shall permit the completion of debate on any item still under consideration, and at his or her discretion, any other remaining business whereupon the Council shall proceed to exclude the public and press.
- (3) Any public business remaining to be dealt with shall be deferred until after the completion of the private part of the meeting, including items submitted for report rather than decision.

Background Papers: Paragraph 8 of the Access to Information Procedure Rules of the Constitution define background papers as being documents relating to the subject matter of the report which in the Proper Officer's opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report and does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of executive reports, the advice of any political advisor.

Inspection of background papers may be arranged by contacting the officer responsible for the item.

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Advice to Public and Speakers at Council Planning Subcommittees

Are the meetings open to the public?

Yes all our meetings are open for you to attend. Only in special circumstances are the public excluded.

When and where is the meeting?

Details of the location, date and time of the meeting are shown at the top of the front page of the agenda along with the details of the contact officer and members of the Subcommittee.

Can I speak?

If you wish to speak **you must register with Democratic Services by 4.00 p.m. on the day before the meeting**. Ring the number shown on the top of the front page of the agenda. Speaking to a Planning Officer will not register you to speak, you must register with Democratic Service. Speakers are not permitted on Planning Enforcement or legal issues.

Who can speak?

Three classes of speakers are allowed: One objector (maybe on behalf of a group), the local Parish or Town Council and the Applicant or his/her agent.

Sometimes members of the Council who have a prejudicial interest and would normally withdraw from the meeting might opt to exercise their right to address the meeting on an item and then withdraw.

Such members are required to speak from the public seating area and address the Sub-Committee before leaving.

What can I say?

You will be allowed to have your say about the application but you must bear in mind that you are limited to three minutes. At the discretion of the Chairman, speakers may clarify matters relating to their presentation and answer questions from Sub-Committee members.

If you are not present by the time your item is considered, the Subcommittee will determine the application in your absence.

Can I give the Councillors more information about my application or my objection?

Yes you can but it must not be presented at the meeting. If you wish to send further information to Councillors, their contact details can be obtained through Democratic Services or our website www.eppingforestdc.gov.uk. Any information sent to Councillors should be copied to the Planning Officer dealing with your application.

How are the applications considered?

The Subcommittee will consider applications in the agenda order. On each case they will listen to an outline of the application by the Planning Officer. They will then hear any speakers' presentations.

The order of speaking will be (1) Objector, (2) Parish/Town Council, then (3) Applicant or his/her agent. The Subcommittee will then debate the application and vote on either the recommendations of officers in the agenda or a proposal made by the Subcommittee. Should the Subcommittee propose to follow a course of action different to officer recommendation, they are required to give their reasons for doing so.

The Subcommittee cannot grant any application, which is contrary to Local or Structure Plan Policy. In this case the application would stand referred to the next meeting of the District Development Control Committee.

Further Information?

Can be obtained through Democratic Services or our leaflet 'Your Choice, Your Voice'

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: District Development Control **Date:** 6 April 2010
Committee

Place: Council Chamber, Civic Offices, **Time:** 7.30 - 8.55 pm
High Street, Epping

Members Present: K Chana, R Frankel, J Knapman, Mrs A Grigg, A Lion, R Morgan, J Philip, Mrs C Pond, B Rolfe, P Turpin, J Wyatt and Mrs L Wagland

Other

Councillors: A Clark, Mrs A Cooper, Mrs J Lea, S Murray, D Stallan and C Whitbread

Apologies: B Sandler, M Colling, Mrs R Gadsby, A Green, Mrs A Haigh, J Hart and G Mohindra

Officers Present: R Rose (Senior Lawyer), N Richardson (Assistant Director (Development Control)), S G Hill (Senior Democratic Services Officer) and D Clifton (Principal Housing Officer [IT])

56. ELECTION OF CHAIRMAN FOR THE MEETING

Resolved:

That in the absence of the Chairman, Councillor L Wagland be elected Chairman for the duration of the meeting.

57. APPOINTMENT OF VICE-CHAIRMAN FOR THE MEETING

Resolved:

That Councillor R Morgan be appointed as Vice-Chairman for the duration of the meeting.

58. WEBCASTING INTRODUCTION

The Chairman reminded everyone present that the meeting would be broadcast live to the Internet, and that the Council had adopted a protocol for the webcasting of its meetings.

59. MINUTES

Resolved;

That the minutes of the meeting held on 2 February 2010 be taken as read and signed by the Chairman as a correct record.

60. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

The following substitutes were noted:

Councillor A Grigg for Councillor R Gadsby
Councillor J Knapman for Councillor G Mohindra
Councillor A Lion for Councillor A Green
Councillor J Phillip for Councillor M Colling
Councillor B Rolfe for Councillor J Hart

61. DECLARATIONS OF INTEREST

Pursuant to the Council's Code of Member Conduct, Councillors J Knapman, Wyatt, K Chana, B Rolfe, J Phillip and A Lion declared a personal interest in item 8 of the agenda (EPF/1753/09 The Elms Caravan Site, Lippitts Hill, Waltham Abbey IG10 4AL) by virtue of the applicants relationship to a district councillor. The Councillors had determined that their interest was not prejudicial and would stay in the meeting for the consideration of the application and voting thereon

Pursuant to the Council's Code of Member Conduct, Councillor P Turpin declared a personal interest in item 8 of the agenda (EPF/1753/09 The Elms Caravan Site, Lippitts Hill, Waltham Abbey IG10 4AL) by virtue of knowing some of the objectors and the site manager. The Councillor had determined that his interest was not prejudicial and would stay in the meeting for the consideration of the application and voting thereon.

Pursuant to the Council's Code of Member Conduct, Councillor R Frankel declared a personal interest in item 7 of the agenda (EPF/2366, 45 Rayfield Epping) by virtue of being a member of Area Planning Subcommittee East. The Councillor had determined that his interest was not prejudicial and would stay in the meeting for the consideration of the application and voting thereon.

62. PLANNING APPLICATION EPF/2366/09. 45 RAYFIELD, EPPING. SINGLE STOREY SIDE AND REAR EXTENSION AND LOFT CONVERSION WITH REAR DORMER WINDOW

The Committee considered an application referred from Area Planning Subcommittee East on 3 March 2010 for the erection of a single storey side extension and rear extensions and a loft conversion at 45 Rayfield, Epping.

The Committee noted a petition received in objection to the development and heard from an objector to the application.

The Committee noted that much of the application could be constructed under permitted development rights. Members agreed with the view of officers that the hipped roof form was more desirable than a flat roof which could be constructed under permitted development and as such should be granted permission. The Committee asked that the removal of further permitted development rights should be attached as a condition to the approval.

Resolved:

That Planning Application EPF/2366/09 at 45 Rayfield, Epping be granted subject to the following conditions:

- (1) The development hereby permitted must be begun not later than the expiration of 3 years beginning with the date of this notice.
- (2) Materials to be used for the external finishes of the proposed extensions shall match those of the existing building.

(3) The development including site clearance, must not commence until a tree protection plan, to include all the relevant details of tree protection has been submitted to the Local Planning Authority and approved in writing.

The statement must include a plan showing the area to be protected and fencing in accordance with the relevant British Standard (Trees in relation to Construction-Recommendations: BS.58837:2005). It must also specify any other means deemed to ensure that all trees to be retained will not be harmed during the development, including by damage to their root system, directly or indirectly.

The statement must explain how the protection will be implemented, including responsibility for site supervision, control and liaison with the LPA.

The trees must be protected in accordance with the agreed statement throughout the period of development, unless the Local Planning Authority has given prior written consent to any variation.

(4) Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 as amended (or any other order revoking, further amending or re-enacting that order) no development generally permitted by virtue of Part 1, Class A shall be undertaken without the prior written permission of the Local Planning Authority. Reason:- The specific circumstances of this site warrant the Local Planning Authority having control over any further development.

63. PLANNING APPLICATION EPF/1753/09 - THE ELMS CARAVAN SITE, LIPPITTS HILL, WALTHAM ABBEY IG10 4AL - TO EXTEND THE LICENCE TO 11 MONTHS

The Committee considered an application to extend the use of the recreational caravan site at Elms Caravan Site from 8 to 11 months of the year from 2 February to 2 January.

The Committee noted representations made by an objector and the applicant.

The Committee were of the view that the proposed time extension would result in an increase in noise and disturbance to the existing residential caravan owners on the site and therefore the application should be refused.

Resolved:

That Planning Application EPF/1753/09 be refused for the following reason:

(1) The proposed extension of time that the site can be occupied would result in additional noise and disturbance to the residents of the adjacent Elms Caravan Site, through which traffic and pedestrians would pass through, and therefore would be contrary to policies DBE9 and RST1 of the Adopted Local Plan and Alterations.

64. SECTION 106 AGREEMENT, FYFIELD HALL, WILLINGALE ROAD, FYFIELD

The Committee received a request for the return of sums paid to the Council under a section 106 agreement linked to the grant of planning permission for conversions and new dwellings at Fyfield Hall, Fyfield.

The Committee noted that save £10,000 of the monies (set aside for a play facility in Fyfield) all monies received had been spent. The Committee also noted legal advice on the request did not support its return.

The Committee concurred with the view of officers that the original sums were appropriate and proportionate to the original application and should not be returned.

Resolved:

That the request to return the sum of £100,000 paid to the Council under a Section 106 Agreement relating to development at Fyfield Hall, Fyfield be refused for the following reason:

- (i) The obligations in the Section 106 Agreement were appropriate, proportionate and necessary and related to the development granted under planning permission EPF/2230/05.

65. ANY OTHER BUSINESS

There was no further business for transaction at the meeting.

CHAIRMAN

Report to District Development Control Committee

Date of meeting: 8th June 2010



**Epping Forest
District Council**

Subject: Planning Application EPF/2361/09 – Redevelopment of land formerly in use as a garden centre to provide 21 flats 80% of which will be affordable housing. (Revised application)

**Officer contact for further information: K Smith
Committee Secretary: S Hill Ext 4249**

Recommendation:

That the Committee considers the recommendation of the Area Plans Sub-Committee South, on 26 May 2010, to grant planning permission.

Report Detail

1. This application has been referred by the Area Plans Sub Committee South with a recommendation for approval. The Officer's report to the Sub-Committee (attached as Appendix 1) discusses the planning merits of the case and carried a recommendation from Officers to refuse planning permission.

Planning Issues

2. The debate at the Sub-Committee meeting centred mainly on the merits of the proposed level of affordable housing on this site in relation to the need for such housing within the District. The Sub-Committee felt that the site is in a sustainable location for an affordable housing development, being located in close proximity to an underground station and bus routes. Having regard to the pressing need to provide affordable housing in the District and the highly sustainable location of this site Members consider that this amounts to very special circumstances for allowing an inappropriate development within the Metropolitan Green Belt. The Sub-Committee consider that this site is suitable for an affordable housing development. They noted that the site is Previously Developed Land and also that it has appeared untidy in the past, having had several buildings erected on it, associated with the garden centre use.

3. Officers agree with the Sub-Committee that the site is in a sustainable location and a residential development may be acceptable where it is of an acceptable design and the applicant has demonstrated a case for very special circumstances for allowing such development within the Green Belt. Notwithstanding this, Officers had several concerns the proposed scheme. In particular, the design and density of the scheme are considered to be unsatisfactory. Officers consider that the applicant has failed to demonstrate a case for very special circumstances which is capable of outweighing this harm to visual amenity and the harm caused by

reason of inappropriateness, to justify the acceptance of the proposed development within the Green Belt.

Conclusion

4. Should the Committee recommend the granting of planning permission, the application will need to be referred to the Government Office for the East of England as a departure from the Local Plan. The recommendation to grant planning permission should be subject to conditions requiring:

- The commencement of the development within five years;
- The use of suitable external materials;
- Highway matters (including details of the site access, the discharge of water from the site, the provision of the car parking);
- The submission of further information relating to tree protection and site landscaping;
- Construction matters including a restriction to working hours and the provision of wheel washing facilities;
- The submission of further information relating to site levels;
- Further information/mitigation relating to contaminated land issues;
- Further detail relating to facilities for refuse storage;
- Details of external lighting within the development (e.g. at car park entrance) and the restriction of additional lighting without planning permission;
- Details of boundary treatments;
- The removal of excavated material from the site; and
- The use of obscure/fixed closed glazing in accordance with the approved plans.

5. It is further recommended that any grant of planning permission should be subject to a legal agreement to secure planning obligations, within 9 months of the date of a resolution, which should secure the following matters:

- The development is not to be commenced until the access road (which is subject to approval under planning application EPF/1399/09 relating to the adjacent site) has been constructed to an agreed standard;
- The amount, tenure, delivery and occupancy of the affordable housing;
- Provision of a financial contribution towards street lighting improvements within the vicinity of the site and the provision of public transport vouchers to the future occupants of the dwellings;
- Provision of a financial contribution towards school places within the local area; and
- Provision of a financial contribution towards the re-opening of a Post Office facility in Manor Road.

Appendix 1
Extract from Area Planning Subcommittee South 26 May 2010

APPLICATION No:	EPF/2361/09
SITE ADDRESS:	Garden Centre 212, Manor Road Chigwell Essex IG7 4JX
PARISH:	Chigwell
WARD:	Grange Hill
APPLICANT:	Mr John Capper
DESCRIPTION OF PROPOSAL:	Redevelopment of land formerly in use as a garden centre to provide 21 flats 80% of which will be affordable housing. (Revised application)
RECOMMENDED DECISION:	Refuse Permission

REASON FOR REFUSAL

- 1 The proposed development, is inappropriate in the Metropolitan Green Belt and therefore, by definition, harmful to it. No very special circumstances that outweigh that harm and other harm have been demonstrated. Moreover, by reason of its height, bulk, massing and density the development would be detrimental to the semi-rural setting of the site and would cause considerable harm to the open character and visual amenities of the Metropolitan Green Belt. The development is, therefore, contrary to policies ENV7 of the East of England Plan and DBE1, GB2A and GB7A of the Adopted Local Plan and Alterations.

- 2 The proposed buildings due to their detailed design, in particular the varying roof pitches within the development would fail to respect their setting, contrary to policies ENV7 of the East of England Plan and DBE1 of the Adopted Local Plans and Alterations.

This application is before this Committee since the recommendation conflicts with a previous resolution of this Committee (Pursuant to Section P4, Schedule A (i) of the Council's Delegated Functions).

Description of Proposal:

This application seeks planning permission for a residential development comprising 21 flats (6 x 1 bed and 15 x 2 bed). It is proposed that 17 of the flats (in excess of 80%) would be delivered through a Registered Social Landlord as affordable housing. The tenure of the affordable housing will be negotiated with the Council's Housing Directorate. The remaining 4 units will be available for private ownership. The accommodation would be provided in four separate blocks, with the

buildings along the Manor Road frontage of the site being two storeys in height and the development to the rear of the site rising to three storeys. Access into the site would be via the proposed access road leading into an adjacent development site (for which the District Development Control Committee has resolved to grant planning permission subject to the completion of a Section 106 agreement). The application proposes a 21 space underground car park with additional cycle/motorcycle storage, with an additional four visitor car parking spaces being provided at surface level. Useable amenity space would be in the centre of the site enclosed by the blocks and the access to the underground car park. It would also be provided in the form of balconies and terraces. A total of 474m² of absolute space would be provided, of which 120 would be balconies and terraces. The proposed development would have hipped, concrete tiled roofs and a range of elevational finishes including brickwork, rendered blockwork and timber cladding.

Description of Site:

The application site is situated on the north-west side of Manor Road opposite Grange Hill Underground Station. It is situated within the Metropolitan Green Belt and presently forms part of Jennikings Garden Centre. It is hard surfaced with a number of buildings occupying the site and an area of car parking to the front. There is an electricity sub station at the rear of the site. The front of the site is fairly open onto Manor Road, to the east is Froghall Lane and to the west is the railway line. The site comprises an area of approximately 0.23 hectare which falls within the applicant's ownership and a section of land within the adjacent site (outside of the applicant's ownership) upon which part of the access road is proposed.

The area of land to the south of the site falls within the administrative area of London Borough of Redbridge, and the row of cottages opposite (195-209 Manor Road) are Grade II listed.

Relevant History:

CHI/0187/57. Layout of new roads & erection of 72 houses - see pf 1231 compensation. Refused 21/08/57.

CHI/0132/73. Use of land for residential purposes. Refused 23/05/73.

CHI/0279/73. Proposed residential development. Refused 23/05/73.

CHI/0577/73. Use of land for residential purposes. Refused 30/01/74.

EPF/1964/07. Outline application for proposed development of 22 no. 2 bed flats, 2 no. 1 bed flats and 1 no. 3 bed flats plus car parking. Withdrawn.

EPF/2405/07. Outline application for proposed development of 20 no. 2 bed flats, 4 no.3 bed flats and car parking. Refused 14/02/08.

EPF/0400/09. Redevelopment of land formerly in use as a garden centre to provide 25 flats 80% of which will be affordable housing. Refused 21/04/09.

EPF/1071/09. Redevelopment of land formerly in use as a garden centre to provide 21 flats, 80% of which will be affordable housing. (Revised application). Refused by the District Development Control Committee (06/10/09) for the following reasons:

- 1. The proposed new vehicular access onto Manor Road, would, given the existing vehicular accesses either side, be a hazard to vehicles emerging from and entering the site, as well as a hazard to the free-flow of traffic and users of this road, such that it would be detrimental to highway and pedestrian safety, contrary to policy ST4 of the Adopted Local Plan and Alterations.*

2. *The proposed development, by virtue of its density and design, would have a bulky and dominant appearance which would be exacerbated by the proposed linking sections between the blocks which would be detrimental to the semi-rural setting of the site and to the surrounding Green Belt land contrary to policies ENV7 of the East of England Plan and DBE1, H3A and GB7A of the Adopted Local Plan and Alterations.*
3. *The proposed buildings, due to their detailed design, in particular the varying roof heights, the use of cat slide roofs along the site frontages and the lack of detailing on the elevations fronting Manor Road, would fail to respect their setting in terms of orientation, roof-line and detailing, contrary to policies ENV7 of the East of England Plan and DBE1 of the Adopted Local Plan and Alterations.*
4. *The proposed bin storage area is inadequate to accommodate the waste and recycling which would be generated by the proposed development, resulting in the potential for additional open storage which would be harmful to the character and appearance of the area, contrary to policy DBE1 of the Adopted Local Plan and Alterations.*

Adjacent Site

EPF/1399/09. Outline planning application for 69 residential units (54 affordable), public open space and a community facility (D1 Use) with all matters reserved except access. Pending consideration...

The above application has a resolution that the Council will grant planning permission subject to the completion of a legal agreement – which is presently under negotiation. Following the resolution of the District Development Control Committee to grant permission, the application was referred to the Government Office for the East of England. The Secretary of State has considered that the application may be determined by the District Council.

Policies Applied:

East of England Plan

SS7 – Green Belt
 H1 – Regional Housing Provision 2001-2021
 H2 – Affordable Housing
 T14 - Parking
 ENV7 – Quality in the Built Environment
 LA1 – London Arc

Adopted Local Plan and Alterations

HC12 – Development Affecting the Setting of a Listed Building
 GB2A – Development in the Green Belt
 GB7A – Conspicuous Development
 H2A – Previously Developed Land
 H3A – Housing Density
 H4A – Dwelling Mix
 H5A – Provision for Affordable Housing
 H6A – Site Thresholds for Affordable Housing
 H7A – Levels of Affordable Housing
 CP1 – Achieving Sustainable Development Objectives
 CP2 – Protecting the Quality of the Rural and Built Environment
 CP3 – New Development

CP4 – Energy Conservation
CP5 – Sustainable Building
DBE1 – Design of New Buildings
DBE2 – Impact of New Buildings
DBE8 – Amenity Space Provision
ST4 – Highways Considerations
ST6 – Car Parking Standards
LL11 – Landscaping Schemes
E4A – Protection of Employment Sites
E4B – Alternative Uses for Employment Sites

Public Consultation:

Notification of this planning application has been sent to Chigwell Parish Council, London Borough of Redbridge and to 36 neighbouring properties.

The application has also been advertised by the display of a site notice and by the publication of an advertisement in The Guardian local newspaper as a Major Application of wider concern.

The following representations have been received:

CHIGWELL PARISH COUNCIL: No objection.

Objections from the following residential properties have been received:

195, 199, 201 Manor Road
21, 31, 48, 84 Grange Crescent
1a Long Green
29 Millwell Crescent
25 Warren Court, Manor Road

The objections have been submitted on the following grounds:

Character and Appearance - The open space which forms part of Jennikings Garden Centre is integral to the semi-rural character of this area. The estate at the top of Manford Way cannot be regarded as high density. Such a development would not only be out of keeping and out of scale with the overall character of the surrounding properties and Grange Hill as a whole, but it would also contribute to the continual creep of in-filling in the area. The frontage of the development does not take into account the character of the street scene, which is characterised by significant set backs from the road. 21 flats on this small piece of land is wrong – nice small houses would be a better solution. This is not a suitable location for flats and would bring down the tone of the area which is currently a quiet, family orientated, idyllic community.

Green Belt - This should not be considered as a “redevelopment” – this is Green Belt Land that has not been previously developed. The bulk of the site is not used as a garden centre - it is a car park. Application does not comply with policy GB16 of the Local Plan. The area adjacent to the railway line marks the edge of the open countryside and once this line is breached there will be no other defensive line to hold.

Parking and Traffic - This part of Chigwell will not be able to cope with the extra traffic onto an already busy road. Insufficient car parking for flats which are likely to have 2 cars each. Existing illegal parking in the area has caused incidents where vehicles (including an ambulance on an emergency call) have found their progress blocked by cars. Number of parking spaces has been reduced from the previous application.

Sustainability - The bus service has been 'talked up'. There are effectively just two southbound bus routes and none serving destinations to the north, east or west. The nearest proper shopping facility is in Hainault. We are not aware that the site is close to school and healthcare facilities within Epping Forest District.

Nearby Listed Buildings - The construction may affect nearby listed buildings. The development would overwhelm the row of listed cottages opposite, causing harm to their setting.

Drainage and Flooding - For many years local residents have had problems with sewerage and surface water. The drains have only recently been widened to alleviate the problem. The proposed development could potentially cause these problems to return. Sewage system will need upgrading.

Other Matters - The garden centre use is existing, not 'former' as described by the applicant; the area of land should be kept in case an extension to the cemetery is needed; potential for property values to decrease; potential increase in crime and anti-social behaviour. Including loud parties, vandalism, fast food litter and loitering.

Other representations have been received from the following parties:

MRS L MILES (Co-owner of the adjacent site): Objection.

ESSEX COUNTY COUNCIL SCHOOLS, CHILDREN & FAMILIES DIRECTORATE: No objection. Seek education/childcare contribution.

LONDON BOROUGH OF REDBRIDGE: Objection. The properties at 195-209 Manor Road, located to the south of the application site and within the London Borough of Redbridge are Grade II Listed properties. Paragraph 2.17 of PPG15 states that: "Where a listed building forms an important visual element in a street, it would probably be right to regard any development in the street as being within the setting of the building. A proposed high or bulky building might also affect the setting of a listed building some distance away, or alter views of a historic skyline." The listed buildings are opposite the application site. It is considered that the application site forms an integral part of the setting of the listed buildings. It is noted that the listed buildings are sunk relative to the road and that their current setting is open fields and a low lying set back single storey garden centre. Manor Road has a variable character, but existing buildings face and address the road, even when set back in the case of the listed buildings. Conversely one of the proposed blocks facing Manor Road faces sideways. From a conservation perspective, the London Borough of Redbridge does not see any justification for the proposal rising to three storeys to the rear of the site and consider that the additional bulk is potentially harmful and unmitigated, harming the visual amenities of the area and the setting of the listed terrace. The proposed buildings would also present a significant wall of development adjacent to the rural aspects of the site, notably the wildflower slopes of the railway to the west, and the discrete lane, country path and pastures to the east. It is noted that there are some flats further along Manor Road to the west of the railway line. However, the area adjacent to and east of the railway line marks the edge of the open countryside defined by Manor Road to the south. The adjoining residential areas to the south and west are of low-density character. The scheme does not relate well to the existing character and settlement pattern of the area described above. The development would intrude substantially into an area of open character, notwithstanding the presence of the nursery. It would detract from the sense of openness in this part of Manor Road. National Government guidance in PPG2 on Green Belts states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the most important attribute of Green Belts is their openness. It is not considered that the openness of the green belt is being maintained by the proposal for the reasons stated above. Furthermore, the design of the buildings does not appear to draw from the rural character and the informal domestic, rural/ suburban character of this specific location. The site itself being low lying and single storey, currently relates more closely to

the agricultural/ rural character of the adjoining field, yet no reference is made to that character and setting. Therefore, the proposal is considered to prejudice the visual amenity of the green belt which is contrary to section 3.15 of PPG2 which states “The visual amenities of Green Belt should not be injured by proposals for development within or conspicuous from the Green Belt which, although they would not prejudice the purposes of including land in Green Belts, might be visually detrimental by reason of their siting, materials or design.” Whilst it is noted that this site is previously developed and that Epping Forest DC allows development of affordable housing on Green Belt land under policy GB16 of its Local Plan. The policy sets out a number of criteria that should be satisfied before development can be deemed acceptable. Redbridge has concerns that three of the six criteria have not been adequately met namely that any scheme should be “well related to the existing settlement,” “not have a detrimental impact on the character of the locality,” and “isolated pockets of development should be avoided.”

Issues and Considerations:

The main issues in this case are:

1. the acceptability of the proposed development within the Green Belt;
2. the loss of the site as employment land;
3. the impact of the proposed development on the amenities of the occupiers of neighbouring dwellings;
4. the design of the development;
5. the impact of the development on the character and appearance of the area;
6. impact on nearby listed buildings;
7. the proposed highway and parking arrangements;
8. the proposed provision of affordable housing;
9. the level of amenity of the proposed dwellings; and
10. the sustainability of the proposed development.

Acceptability of the Development within the Green Belt

The site is located within the Metropolitan Green Belt, where new residential development is inappropriate. In this instance, the applicant has put forward a case explaining why they consider that there are very special circumstances which justify this development within the Green Belt. It is proposed that 80% of the proposed 21 units on the site would be provided as affordable housing. The Design and Access Statement contends that *‘redevelopment as proposed would make more efficient use of this strategically positioned site and provide a high proportion of quality low cost housing in a sustainable location without any obvious amenity drawbacks’*.

The application site is located on the edge of the urban area. The site is well served by transport infrastructure, not least by Grange Hill Underground Station. Notwithstanding this, the site is located within the Metropolitan Green Belt and, as a result, residential development would be inappropriate. Such development is, by definition, harmful and can only be allowed where very special circumstances that outweigh the harm caused by reason of inappropriateness and any other harm caused by the development are demonstrated. Such circumstances must be unique and not readily capable of being applicable to any other site in the Green Belt.

There have, however, been other cases within the District where it has been accepted that the provision of affordable housing may contribute towards a case of very special circumstances for allowing a development within the Green Belt. Such cases require a very careful and balanced assessment of the weight to be attached to the special circumstances and the weight to be attached to the harm to the Green Belt.

In this instance, the harm to the Green Belt extends beyond that of inappropriateness. The density of the development in terms of both its footprint and height would cause considerable harm to the

open character of the Green Belt, contrary to policy GB2A of the Local Plan. Furthermore, policy GB7A of the Local Plan states that the Council will refuse planning permission for development which would be conspicuous from within or beyond the Green Belt which would have an excessive adverse impact upon the openness, rural character or visual amenities of the Green Belt. The proposed development, by reason of its height, bulk, massing and density would be detrimental to the open character of the Green Belt, contrary to this policy. For the same reasons, it would be harmful to the rural character of the locality and especially harmful to the visual amenities of the Green Belt.

The development is also of poor design that would detract from the character and appearance of the locality in general. These objections are discussed further below. The very special circumstances proposed by the applicant are:

1. The development would contribute towards making up a shortfall in affordable housing in the locality.
2. The development would secure a financial contribution of £40,000 towards the re-opening of a Post Office in the locality.
3. The site is previously developed land.
4. The site is in a sustainable location for residential development.
5. The development would improve the appearance of the site.
6. The situation of the site is such that there are no long views of it.
7. Land beyond the site will continue to remain open.

The Officer's comments on these seven points are as follows:

The proposal would provide 17 affordable flats by way of a contribution towards meeting the District's need for affordable housing. No social housing provider has expressed an interest in the proposal and the design of the development with an underground car park may affect the viability of the flats as social housing. This has not been addressed in the proposal. Moreover, while the site is in a sustainable location, the need for social housing is a District wide need that is not related to any particular site. A case that a proposed residential development contributes to meeting the need for social housing can be made in relation to any site within the Metropolitan Green Belt.

Although the site is previously developed, it is open and planning policy for Green Belts makes it clear that their purpose is to ensure land within the Green Belt is permanently kept open. The condition of the land is not relevant to the inclusion of the land in the Metropolitan Green Belt.

The condition of the land and whether the development would improve its appearance and its visibility cannot amount to very special circumstances.

It is accepted that the proposed development of this site would generate additional demand for services which were provided by the Post Office within the local shops until its recent closure. The Post Office was closed following a review and consultation exercise undertaken by Royal Mail in 2007. Following the closure of this and other Post Offices across the country, Royal Mail provided local authorities with an option to re-open Post Offices, provided that they are 'cost-neutral' to Royal Mail and do not have a significant impact on surrounding Post Offices. The re-opening of the Post Office would be of benefit to the wider community, in addition to the future occupiers of the proposed development. However, in recent years there have been a number of Post Office closures and accordingly, a financial contribution towards an off-site post office facility cannot be considered as a very special circumstance.

Although not raised by the applicant, there is a potential argument that the resolution to grant outline planning permission on a much larger area to the north and west of the site amounts to a very special circumstance. This is clearly a material consideration. However, until such time that

a planning permission is actually issued, the weight that should be given to that decision must be limited. In these circumstances, this cannot be regarded as a very special circumstance. With regard to the planning application for the adjacent site, following referral to the Secretary of State and negotiations with regard to the provisions of the Section 106 legal agreement, a draft agreement was sent to the applicant on 17th March 2010. At the time of writing this report, no formal response has been received from the applicant's solicitors. Under these circumstances, it would be premature to attach any considerable weight to this matter, at this time.

In the Planning Officer's view, the identified harm to the Green Belt is not outweighed by the benefits of the special circumstances. It is considered that for the development to be acceptable the harm to the Green Belt would need to be considerably reduced. It is suggested that this could be achieved by a reduction to the height (particularly towards the front of the site) and mass of the proposed development.

Loss of Employment Land

Policy E4A of the Local Plan safeguards employment sites from redevelopment to other uses, unless a number of criteria are satisfied. In this instance, having regard to the resolution to grant planning permission at the adjacent site (the main area of the garden centre) it is not considered that the refusal of planning permission on this basis would be justified. Policy E4B of the Local Plan relates to alternative uses for employment sites and favours uses which fulfil community needs prior to open market residential use. The policy recognises affordable housing as being an appropriate community need. Furthermore, a community need has recently been identified for the re-opening of the former Post Office in Manor Road. This application proposes 80% affordable housing and the applicant has also confirmed that they would be willing to enter into a legal agreement to provide a contribution towards the cost of re-opening the Post Office and also towards its running costs for the first three years. It is anticipated that this contribution would be in the region of £40,000, payable over a three year period. Having regard to this package of community benefits, the loss of the employment use is justified in this instance.

Neighbouring Amenity

Due to the distance that would separate the proposed development from the nearest residential properties (it is in excess of 25 metres from the site to the dwellings on the opposite side of Manor Road adjacent to the Underground station) there would not be a material loss of amenity. The row of listed cottages in Manor Road have their main areas of amenity space located to the front. However, the development would be located approximately 22 metres from these gardens and due to this relationship and the length of the gardens there would not be a material loss of privacy.

The proposal indicates side windows in the rearmost block (within the northern section of the site), which would face into the neighbouring site. The applicant has submitted revised plans which indicate that these windows would be obscure glazed. As these windows would all be secondary windows to living/dining rooms, a condition requiring that they are obscure glazed would meet all the tests set out in Circular 11/95.

The awkward shape of the site results in similar problems with the front/rear of this rear block. As they occupy most of the width of this part of the site, the flats are heavily reliant on the open aspect of land outside the applicants control for their natural light and outlook. At the rear (east), the blocks face onto Froghall Lane. To the front (west) they would again face into the neighbouring site, with a separation distance of approximately 2.5 metres to the site boundary (the stairwell would abut the boundary). Following an amendment to the submitted plans, the internal layout of this block has been altered, so that all the windows facing west onto the adjacent site would be non-habitable. Accordingly, these may also be conditioned to be obscure glazed, to mitigate any harm to the future occupiers of either this or the neighbouring site.

Design

The design of the development, to some extent, is improved in relation to that which was the subject of the previous application. The buildings on the Manor Road frontage would have an improved relationship with the street scene than on the previous scheme, as they would create a better defined frontage and contain more elevational detailing and fenestration.

However, there is significant scope for the design of the development to be improved further by reducing its height and bulk. This could be achieved in part by lowering the roof pitch of the blocks at the front of the site to match those behind, which would reduce the height of these blocks by up to one metre. The design would benefit from the regularisation of all roof pitches within the development, including on the projecting gable sections.

Alterations to the roof pitches (as discussed above) have been suggested to the applicant's agent. In response, the agent has commented that they have been deliberately pitched in a way to reduce the height differential between the three storey blocks to the rear of the site and the two storey blocks. The agent states that this will reduce the dominance of the blocks to the rear on the street scene.

However, the Planning Officer's opinion is that rather than reduce the dominance of the rear blocks, this element of the design actually increases the dominance of the front blocks.

Overall, it is considered that the design is unacceptable, due to the density and scale of the development proposed and due to the varying roof pitches.

Impact on the Character and Appearance of the area

Further to issues relating to the detailed design of the proposed development, it is considered that the development proposed would be an overdevelopment of the site. The density is only accommodated by the site because the car parking would mainly be below ground level and the proposed level of amenity space is at the minimum level that might be considered as acceptable. Having regard to Government advice, such a dense development might be acceptable in another context. However, in this instance, bearing in mind the Green Belt location of the site and the semi-rural character of the surroundings of the site, the density is excessive. A development of lower density would provide a softer edge to the surrounding countryside and would be more in keeping with the character of surrounding development. The proposed development would be at odds with the character and appearance of the surrounding area, which, in the immediate vicinity of the site, is characterised by fairly low density development and views across open space.

Within the Design and Access Statement submitted with the planning application, the applicant states that this proposed development would help the Council to meet its housing and affordable housing targets. Government advice clearly directs a need to meet these targets and strong emphasis is placed upon the need for the efficient and effective use of land to achieve this. PPS3 states *'more intensive development is not always appropriate. However, when well designed and built in the right location, it can enhance the character and quality of an area. Successful intensification need not mean high rise development or low quality accommodation with inappropriate space. Similarly, in Conservation Areas and other local areas of special character where, if proper attention is paid to achieving good design, new development opportunities can be taken without adverse impacts on their character and appearance'*. It is considered that if a case were submitted upon which the development of this site could be considered to be justified as an exception to normal Green Belt policies of restraint, a higher standard of design should be required in accordance with the above advice.

Impact on Nearby Listed Buildings

The row of listed cottages is located on the opposite side of Manor Road and is set back from the public highway. Their location on the other side of the street visually divorces them from the site and as a result the proposed development would not be detrimental to their setting.

Notwithstanding this assessment, comments have been received from London Borough of Redbridge stating that they have significant concerns about design, bulk and scale and impact on the listed buildings. In particular, London Borough of Redbridge considers that the three storey element at the rear of the site is potentially harmful and unmitigated, to the detriment of the visual amenities of the area and the setting of the listed terrace.

Highways and Parking

The access to the proposed development would be via the proposed estate road into the adjacent site. This access has been agreed in principle on the outline planning application into the adjacent site. That application has a resolution from the District Development Control Committee for planning permission to be granted, subject to the completion of a Section 106 legal agreement.

That agreement is presently being negotiated. That application was referred to the Government Office (as a departure from the Local Plan) and the Secretary of State has allowed the Council to determine the application. This arrangement is, therefore, considered to be acceptable. However, as this development would be entirely reliant on the construction of this road for vehicular access, it will be necessary for a legal agreement to ensure that the development does not commence prior to the construction of the access road to an agreed standard, if permission is granted.

Bearing in mind the likely timeframe for this to happen (considering that the road does not yet have outline consent) it is considered that it will be necessary to grant consent for a period in excess of the standard 3 years to enable the required works to take place prior to commencement. A period of five years has been discussed with the applicant's agent, who considers this to be a reasonable approach to take.

The development would include a total of 25 car parking spaces; 21 within an underground car park (including two disabled access width bays) and 4 at surface level. Space for cycle and motorcycle storage is also provided within the underground car park.

The number of parking spaces falls below the Council's minimum standard, which for this scale of development would be 41 spaces. However, having regard to the location of the site close to an underground station and in close proximity to local services, it is considered that a reduction below the Council's normal standard is justified. Accordingly, the level of car parking proposed is considered to be acceptable.

Affordable Housing

The Council seeks affordable housing provision of 40% on residential developments comprising 15 or more dwellings. This application proposes to provide 80% affordable housing, to justify allowing this development to take place within the Metropolitan Green Belt. The proposal is supported by the Council's Housing section, which has confirmed that the number of applicants on the Housing Needs Register across the District now exceeds 5000. However, concern has been raised by the Council's Director of Housing regarding the viability of delivering the affordable housing, due to the expense of the proposed underground car park.

Amenity of Proposed Dwellings

The removal of the access road from the scheme following the previous refusal has enabled the provision of additional amenity space. Furthermore the nature of the amenity space is considerably improved due to it mainly being located in one large central area. Other smaller areas are provided, notably in the form of balconies and terraces associated with individual flats.

The amount of amenity space accords with Local Plan policy. Policy DBE8 of the Local Plan also suggests that private amenity space should usually be provided at the rear of dwellings; directly adjacent to and accessible from the buildings; of a size and shape which enables reasonable use; and of an aspect that would receive sunlight throughout the year. Having regard to the nature of the scheme the location of the amenity space is acceptable. The proposed amenity space is directly adjacent to and accessible from the buildings, is generally of a size and space that would enable reasonable use and whilst it would receive limited sunlight due to it being surrounded by buildings to the south, east and west, it is this layout which shields the area from public view. Accordingly, this application generally complies with the criteria set out in policy DBE8.

Sustainability

As discussed previously, the site is in a sustainable location, having good access to public transport services and local amenities. In the Design and Access Statement, the applicant advises that the use of extensive glazing to the individual apartments takes advantage of solar gain and natural light and will help to minimise energy use. Whilst it is envisaged that water efficient and energy saving systems will be incorporated within the build other methods of waste and rain water storage will be considered and installed where possible. The Statement also makes reference to the provision of cycle storage and recycling facilities.

Other Matters

Landscaping

This planning application is not supported by a landscaping scheme, although some indicative landscaping is shown on the submitted plans. It is unclear whether the indicative landscaping suggests the planting of trees or shrubs. There are constraints on the site (for example the close proximity of buildings to site boundaries and the provision of the underground car park which would leave a shallow soil depth above) which may mean there are limitations to the amount and type of landscaping which may be provided. Notwithstanding this, some site landscaping may be secured by planning condition, if permission is granted.

The proposed development would clearly necessitate the removal of a substantial section of vegetation along the Froghall Lane boundary.

Waste and Recycling

The inadequate provision of storage for waste and recycling was identified as a reason for refusal for the previous scheme, which proposed three small bin stores located around the site. The location of the stores would have presented difficulties for refuse collectors. This revised scheme proposes a single refuse storage area (approximately 4.3 x 4.6 metres) located on the corner of the development at the closest point to the access road. This arrangement is acceptable and addresses the previous reason for refusal. Details of the layout of the bin store may be secured by planning condition.

Education

Essex County Council (ECC) has advised that if planning permission is granted they would seek a contribution of £9,246 towards Early Years and Childcare provision in the locality and £35,072 towards secondary education provision. Due to a surplus of primary school places in the locality they would not seek a contribution towards primary education.

ECC have further advised with regard to secondary provision that the local school for this development would be West Hatch School and the 2008-2013 Essex School Organisation Plan (SOP) shows that there is currently a deficit in places at this school. A deficit will remain

throughout the SOP period and therefore additional places are required at the School. The proposed development will add to that need. Due to the position of the proposed development in relation to the M11 there are no suitable alternative secondary schools in Essex. The development falls within Grange Hill Ward and there are no available early years and childcare provision within the Ward.

There has been concern raised in respect of previous applications within this part of the District that the development site would be outside the catchment area for West Hatch School and as a result it is not necessary, or reasonable for the applicant to make a contribution on this basis. This is a matter which will require careful consideration, if it is determined that planning permission should be granted.

Protected Species

Having regard to surveys on the adjacent site, it is considered likely that there may be protected species present on the site (particularly within the vicinity of the Froghall Lane boundary). If planning permission is granted, planning conditions will be required to ensure the submission of an ecology survey and the implementation of any mitigation methods which the survey identifies as being necessary.

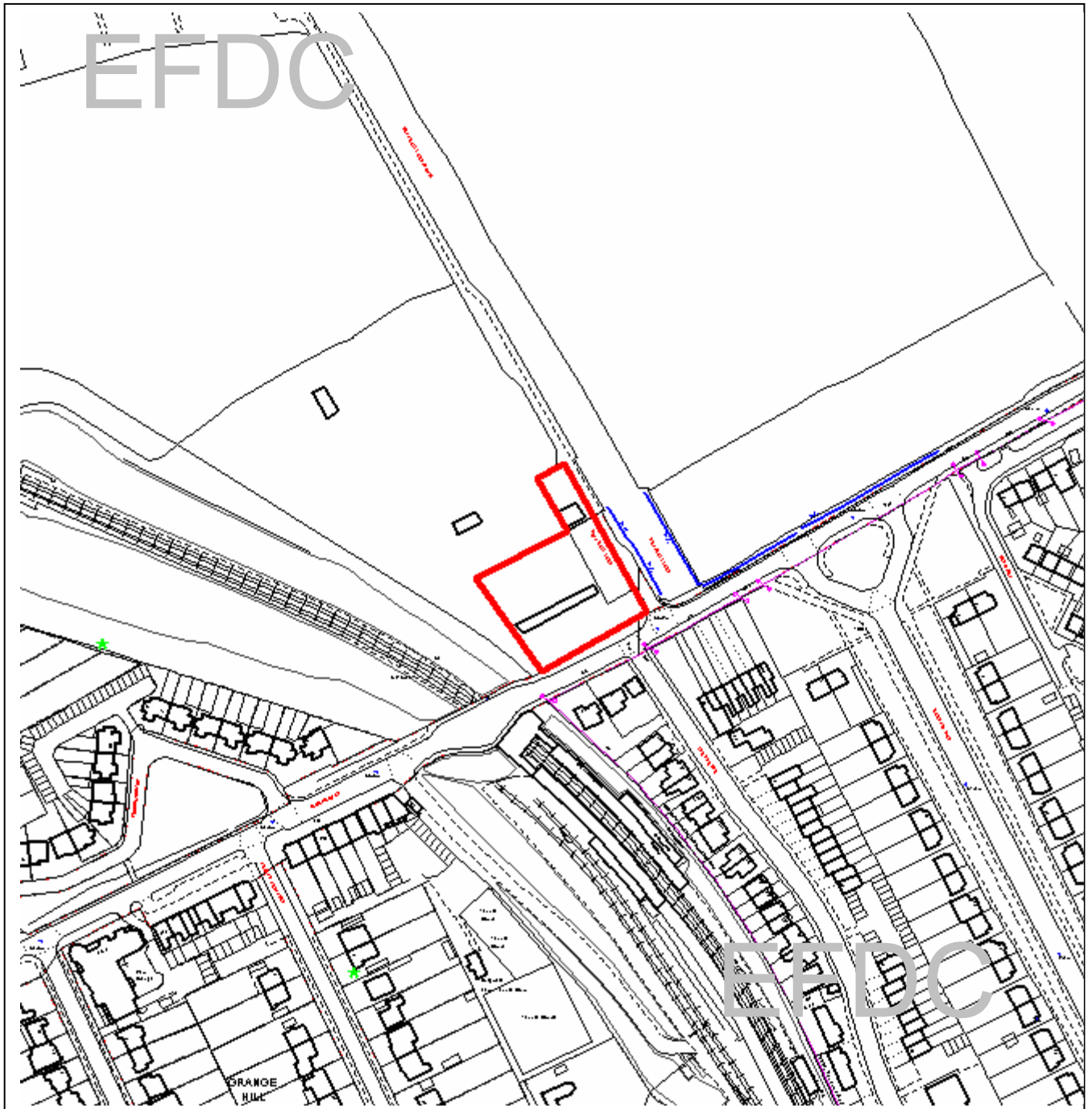
Conclusion

The scale and density of the development proposed is such that the level of harm to the open character and visual amenities of the Metropolitan Green Belt would be such that it would not be outweighed by the circumstances set out by the applicant, as while they amount to material considerations they are not of an order that could amount to very special circumstances. Furthermore despite improvements to this scheme following the previous refusal, the design is still not to an acceptable standard. In particular, it is considered that the varying roof pitches within the development (most notably the steepness of roof pitches adjacent to Manor Road and on the projecting section at the rear of the rearmost block facing) would be harmful to visual amenity. For these reasons, it is recommended that planning permission be refused.



Epping Forest District Council

Area Planning Sub-Committee South



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Agenda Item Number:	2
Application Number:	EPF/2361/09
Site Name:	Garden Centre, 212, Manor Road Chigwell, IG7 4JX
Scale of Plot:	1/2500

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Report to District Development Control Committee

Date of meeting: 8 June 2010



**Epping Forest
District Council**

Subject: Planning Application EPF/1893/09 –Tylers Cross Nursery, Epping Road, Nazeing, Essex EN9 2DH – Subdivision of existing pitch to provide 2 additional pitches for gypsy/traveller occupation and use of existing building as day room.

Officer contact for further information: J Cordell Ext 4294

Committee Secretary: S Hill Ext 4249

Recommendation:

That the Committee considers the recommendation of Officers to grant planning application EPF/1893/09 subject to the following conditions which would correlate directly with those attached to the original consent:

- (1) The use hereby permitted shall be carried on only by the children of Mr Breaker and their dependants;**
- (2) No more than one lorry parking space per pitch shall be provided and no such space shall be used for parking a Heavy Goods Vehicle. Subject thereto, no part of the development hereby permitted shall be used for any business or open storage purposes**
- (3) The number of mobile homes/caravans per pitch hereby permitted shall be limited to two, one of which shall be a touring caravan; and**
- (4) The day room use hereby permitted shall not at any time be used as sleeping accommodation or occupied as an independent unit.**

Report Detail

1. This application is brought before committee as it is affected by the current consultation process for the Gypsy and Traveller DPD.

Planning Issues

Description of Development:

2. The applicant seeks to subdivide the areas presently serving as a single pitch known as Springfields and the area to the south presently not designated as a residential pitch. The result would be the Springfields plot being split to provide an additional pitch and the plot behind being used as the second pitch with the

provision also of a communal day room making use of an existing building. The whole of the Springfields site is occupied by the Breaker family.

3. This differs from the consent sought under EPF/1892/09 in that additional pitches would benefit from the ability to contain 2 caravans, one of which should be a touring caravan. In real terms the occupation of the caravans would not differ between applications, the physical number of caravans could be two greater as part of this application (with each pitch allowed 2 caravans) and the provision of pitches can offset the provision the District is required to make under the East of England Plan whereas provision of caravans alone can not (as per the other simultaneous application).
4. The proposals would provide accommodation for Mr Breaker's children.

Description of Site:

5. The red lined application site is a roughly rectangular area of land encompassing the pitch known as Springfields, and the 'L' shaped building immediately adjacent to the south. The additional caravans would be provided within these two areas. This proposal would result in the plot known as Springfields extending into the previously non-residential area to the south where there is an existing static building.
6. The Springfields pitch is part of the larger Brede and Breaker site comprising 9 pitches approved under EPF/0960/09. The overall Tylers Cross site comprises a number of nurseries and 15 authorised Gypsy and Traveller pitches.

Relevant History

7. There is an extensive history associated with the wider Tylers Cross site. The most relevant history for the purposes of this application is EPF/0960/98 which permitted an additional 7 pitches onsite resulting in a total of 9 within the Brede/Breaker area of the Tylers Cross site. This application was refused by the Council, Dismissed at appeal by the Planning Inspector and allowed by Go East. Conditions attached to that consent permitted that each pitch may comprise two mobile homes/caravans one of which must be a touring caravan. (Appeals attached as appendix).

Policies Applied:

8. Epping Forest District Local Plan and Alterations

GB2A - Development in the Green Belt.

H10A - Gypsy caravan sites

RP5A - Adverse environmental impacts

DBE9 - Loss of amenity

ST1 - Location of development

ST2 - Accessibility of development

ST4 - Road safety.

CP2 - Protecting the quality of the rural and built environment

HC6 - Character, appearance and setting of conservation areas

LL1 - Rural landscape

LL2 - Inappropriate rural development

Summary of Representations:

9. Four neighbouring properties were consulted and site notices were erected both originally on receipt of the application and after revisions were made to the site boundaries on the application. No neighbouring comments have been received.
10. ROYDON PARISH COUNCIL: Object. Green Belt, inappropriate development and no special circumstances. Subdivision of plots should not be allowed as they are enough plots in both the immediate area and further afield. Await the outcome of the Gypsy and Traveller Consultation.

Issues and Considerations

11. The main issues for consideration are whether there is a clear demonstrable need for further gypsy and traveller accommodation and whether this can be linked directly to this site, whether there are very special circumstances to overcome Green Belt in principle objections, if there will be any adverse impacts to the nearby Conservation Area or street scene, neighbouring amenity and highway issues.

Existing need

12. The East of England Plan set out the requirement for additional pitches in the District and the Councils Consultation on Options Development Plan Document set out where it may be considered reasonable to make provision for these pitches generically. This document recommended that no expansion of the site at Tylers Cross take place as the site has 15 authorised pitches overall and this is the usual upper limit on the desirable number of pitches and also because of the concentration of pitches in this area. This recommendation was reached from a generic viewpoint and was not offered in the context of looking to provide additional accommodation of direct relatives of established families onsite.
13. The proposed accommodation would solely benefit the children of Mr Breaker. The Gypsy status of the family which is well established onsite is not disputed. Furthermore, consideration may be given to the need for further family accommodation which was identified by the Planning Inspector in paragraph 36 as part of the 1998 appeal, however at this time this need was merely foreseeable not demonstrable at that time. The need is clearer, now that the Breaker children have grown up and require their own accommodation and the existing family members have remained in accommodation at the site.
14. It should be noted that the provision of additional pitches in this location for existing family members may provide an opportunity to reduce Council targets for pitches as set out in the East of England Plan without significantly altering any existing strain on local resources.

Green Belt

15. Additional accommodation in the Green Belt for the Gypsy and Traveller community is not identified as an exception to usual policy in PPG2, therefore the proposals are by definition harmful. Therefore it remains to be considered whether there are very special circumstances to justify the proposed development.

16. Historically it has been considered that the demonstrable need for accommodation in the District and for the established families on site, alongside the desirability of retaining a traditional gypsy unit on one site with direct family ties and an established historic link to the locality has been considered by the Government Office as sufficient to justify development in this location due to its visual isolation from the surrounding area and the circumstance outlined above. These factors remain applicable to the request to vary this condition, therefore on this pitch alone, which is of a greater size than those additional pitches previously permitted, is considered reasonable.

Conservation Area and Street scene

17. The site is situated close to the Conservation Area and public highway. Due to the enclosed nature of the site views into the site from beyond Tylers Cross are not possible, therefore there would be no demonstrable impact visually on the Street scene or Conservation Area.

Neighbouring Amenity

18. The neighbouring pitches are occupied predominantly by direct family ties and others by families with established associations both with the site and the application family. There have been no objections raised and the provision of two additional pitches and a community building is unlikely to have any significant additional impacts to neighbouring amenity, particularly as the structure proposed for use as a community building already exists.

Highways and access

19. The additional vehicular movements associated with the addition of two pitches for occupation by family members is considered to have minimal impact on the vehicular movements associated with the access to the Tylers Cross site which currently exist therefore no concerns are raised.

Conclusion:

20. The area proposed for the additional pitches is of sufficient size to accommodate the division into additional pitches. The need for gypsy and traveller accommodation is well established across the District and this would provide opportunity to contribute toward District targets without any significant strain on local resource beyond that which may currently exist.
21. The circumstance of the site, the family ties involved in the application and the desirability to maintain a traditional gypsy family unit have historically in the 1998 appeal decision provided sufficient very special circumstance to overcome Green Belt objections and actual demonstrable harm would be minimal due to the Tylers Cross site being entirely enclosed and viewed only within the site.
22. The use of the existing structure as a day room for use by families onsite is not considered harmful as the structure is already in place and subject to a condition preventing this being used as sleeping accommodation, its ancillary use appears reasonable.
23. There are no significant issues raised in the respect of the Conservation Area, street scene, neighbouring amenity or highways, therefore mindful of the above Officers recommend approval.



Report

Inquiry held on 13 July 1999

by Bridget M Campbell BA(Hons) MRTPI

an Inspector instructed by the Secretary of State for the
Environment, Transport and the Regions

The Planning Inspectorate
Tollgate House,
Houlton Street
Bristol BS2 9DJ
☎ 0117 987 8927

13 AUG 1999

G132

H11

Appeal : APP/J1535/A/99/1017660

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is brought by **J Brede and S Breaker** against Epping Forest District Council.
- The site is located at Silverwood and Springfield Yards, Tylers Cross Nursery, Broadley Common, Nazeing.
- The application (ref:EPF/960/98), dated 2 July 1998, was refused on 26 October 1998.
- The development proposed is the change of use of the land to accommodate an extension of the exiting travellers' mobile home caravan site, with an increase of 7 homes, making a total of 9.

Recommendation: The appeal be dismissed.

Introduction

1. I have the honour to report that on 13 July 1999, I held an inquiry at the Council Offices, 323 High Street, Epping into the above appeal.
2. The reasons for refusal are:
 1. The site is within Metropolitan Green Belt. The proposed works represent inappropriate development and are therefore at odds with Government advice, as expressed in PPG2, the policies of the adopted Local Plan and the Approved Essex Structure Plan. The latter states that within the Green Belt permission will not be given, except in very special circumstances for the construction of new buildings or for the change of use or extension to existing buildings except for the purposes of agriculture, mineral extraction or forestry, small scale facilities for outdoor participatory sport and recreation, cemeteries, or similar uses which are open in character. In the view of the Local Planning Authority the application does not comply with these policies because the very special circumstances submitted are not considered to overcome the policy presumption against development as set out above.
 2. The proposal if permitted would result in the consolidation of built development which by its nature would detract from the visual appearance and from the rural character of its surroundings contrary to Local Plan Policies.
 3. The proposal would intensify the use of a sub-standard access on a stretch of classified highway where the principal use is that of carrying traffic freely and safely between centres of population. The existence of an access in this location is a matter of fact and therefore some degree of conflict and interference to the passage of through vehicles already occurs but the intensification of that conflict and interference which this proposal would engender would lead to the deterioration in

the efficiency of the through road as a traffic carrier and be detrimental to highway safety.

3. The appeal was recovered for determination by the Secretary of State by direction made on 24 February 1999 for the reason that the appeal relates to proposals for significant development in the Green Belt.
4. This report includes a description of the appeal site and surroundings, the gist of the representations made at the inquiry and my conclusions and recommendation. Lists of appearances, documents, plans and photographs are attached.

The site and surroundings

5. The appeal site forms part of Tylers Cross Nursery, which covers a large area of land to the west of the B181, Epping Road and Common Road (document 7, appendix 1 & appendix 10, proposals map). I understand that the Nursery formerly comprised a single horticultural enterprise but has been sub-divided into some 13 individual holdings. No precise information has been provided concerning the various uses at the Nursery. Some horticultural/nursery activities continue utilising existing glasshouses and it was agreed at the inquiry that there are 5 single family gypsy pitches, which include the 2 occupied by the Appellants' families. Whilst I found it difficult to identify all the various uses at the Nursery, I saw a significant haulage/distribution depot and a site used for the storage of old cars. The Council say that there are other industrial and storage uses.
6. There are a number of substantial glasshouses on the Nursery, together with an assortment of other buildings, tanks and structures, including a large utilitarian shed of blue sheeting with grey sheeting to the pitched roof. Parts of the Nursery, including the existing gypsy sites, have a well maintained and cared for appearance, whilst other areas contain dilapidated, neglected buildings or comprise neglected, overgrown land some of which is used for dumping rubbish.
7. The principal access into the Nursery, used by practically all the occupiers, is from the B181, Epping Road, and it adjoins and merges with the northern side of an access to Fernhurst, a house fronting Epping Road. The access lies some 250m to the south of a roundabout junction and about 130m north of the Epping Road/Common Road junction (document 6, appendix POE/02). There are a good number of other private accesses along this stretch of road. Epping Road is subject to a 40mph speed limit in the vicinity of the access and there is a single footway along the eastern side opposite the access. The road is designated as a principal county distributor and acts as a connector between Harlow to the north east and Waltham Abbey to the south west (document 6, appendix POE/01). It was reasonably busy during my visit.
8. At my visit, I saw that visibility from the access along Epping Road to the north is restricted by overgrown road-side vegetation. In a southerly direction, the restriction is more severe due to the gentle curve of the road (photo 1). Vegetation close to the road edge, including 3 dead trees, and some planting within the front garden of Fernhurst further limit views of traffic approaching from this direction. During my visit the access was in regular use, mainly by commercial vehicles including articulated lorries.
9. The main access way within Tylers Cross Nursery runs through the site in a south westerly direction. Springfield and Silverwood Yards, occupied by the Appellants, are situated on the southern side of this main access. The appeal site lies to the rear of Springfield and

Silverwood and extends to the southern boundary of the Nursery (plan A). It has its own vehicular access leading from the main access serving the Nursery, adjacent to the eastern boundary of Silverwood.

10. The appeal site has been raised above the level of adjoining land to the east and south (document 7, appendix 2). The northern part of the site and the access are surfaced with chippings and are enclosed by close boarded fencing. There is a timber L shaped building in the north western corner and, at the time of my visit, there were 9 occupied caravans stationed on this part of the site.
11. The southern part of the site appears to be ready for a final coating of chippings and was vacant at my visit. Some planting on adjoining predominantly open land appears to mark the eastern boundary of the southern part of the site but the western boundary, bordering neglected and tipped land, is ill-defined. There is some thin planting along the southern boundary of the site, beyond which is a designated footpath and a further glasshouse belonging to a separate nursery.
12. A scatter of houses, primarily fronting Epping Road and Common Road, to the south and east of Tylers Cross Nursery form the small settlement of Broadley Common, and there are other small settlements nearby. A number of other nurseries in the general area accommodate large glasshouses. Otherwise the land is predominantly open, with some gentle undulations and mainly in agricultural use. The edge of the urban area of Harlow lies less than one kilometre to the west (document 6, appendix POE/01 & document 7, appendix 10, proposals map).
13. There are a number of footpaths to the south and west of the Nursery (document 7, appendix 11). That passing along the southern boundary of the appeal site would afford public views of the site. The path, however, is not discernible as it passes the site and is impassable due to unchecked brambles, nettles and similar vegetation. Other paths in the vicinity are more easily recognised although none seemed to me to be well used. From these, views towards the appeal site are possible but these are very distant and generally the site is screened by intervening vegetation. Currently, the most notable public viewpoint available is from Common Road, across the car park and garden of a public house. From this direction, I saw the tops of caravans on the appeal site against a backdrop of other structures on the Nursery including the large utilitarian shed. Photographs of the site and the surroundings are to be found in document 7 at appendices 2 & 3.

Planning background

14. A schedule summarising the complex planning history of Tylers Cross Nursery is contained in document 6 at appendix 4 and a number of appeal decisions, including several relating to gypsy sites, are to be found in appendix 5. However, most of the applications and enforcement notices do not relate specifically to the appeal site.
15. Appeals by Mr Brede and Mr Breaker were made against an enforcement notice issued in 1984 relating to the use of Pinewood Yard (now Springfield and Silverwood Yards) for the purposes of stationing caravans for human habitation. The notice was quashed and conditional planning permission was granted on 17 January 1985. The permission enures only for the benefit of the Appellants and the number of caravans is restricted to 2. At the same time a similar enforcement notice relating to the adjoining site, Rosewood Yard, was quashed and a similar planning permission granted for occupation by Mr Breaker's brother (document 6, appendix 6 & document 8).

16. An appeal to retain a hay barn and stables to the rear of Springfield was dismissed on 3 March 1994 (document 6, appendix 5).

The proposed development

17. The proposal would involve the provision of individual plots for 7 mobile homes to accommodate some of the Appellants' children, all of whom are gypsies. The plots would be evenly distributed over the appeal site, to either side of a central access leading from the existing access and with a turning head at the southern end. Each pitch would have its own curtilage with 2 parking spaces and space for a touring caravan in addition to the mobile home. A sewage treatment plant would be located in the south eastern corner of the site (plan A).
18. The fence currently dividing the site would need to be removed but the existing L shaped building is shown to be retained. Indicative planting/landscaping is included on the application drawing, specifically along the boundaries of the site.

The Development Plan

19. The Development Plan for the area comprises the Essex County Structure Plan Second Alteration 1995 (together with retained and unaltered policies from the Approved Structure Plan 1982 and the Approved First Alteration 1991) (hereinafter referred to as the Structure Plan) and the Epping Forest District Adopted Local Plan 1998 (the Local Plan). Extracts from the Structure Plan are to be found in document 6, appendix 8 and document 7, appendix A and extracts from the Local Plan are to be found in document 6, appendix 10 and document 7 appendix C.
20. The policies of the Development Plan define the boundaries of the Metropolitan Green Belt and seek to concentrate development within urban areas and selected rural settlements (S1, S6, S7 – Structure Plan, GB1 – Local Plan). Outside the defined urban areas and rural settlements, the whole of the District including the appeal site is Green Belt. Policy S9 of the Structure Plan contains a presumption against development in the Green Belt unless there are very special circumstances or the proposal is for one of the uses specified, which do not embrace the appeal proposal. Policy GB2 of the Local Plan states that permission will not be granted for development in the Green Belt unless it is appropriate. Gypsy sites are not included within the definition of appropriate development in the policy.
21. Both the Structure and Local Plan contain specific policies relating to gypsy caravan sites. BE6 of the Structure Plan states that provision is to be made and that proposals are to be considered against the total number of families to be accommodated in Essex; migratory habits, primary areas of local trade and employment, seasonal or permanent; and the requirements of families in respect of permanent sites, transit sites and temporary stopping places on the basis of the needs within each District.
22. Policy H11 of the Local Plan indicates that proposals for sites within the Green Belt will be assessed having regard to: (i) whether there are any special circumstances which would justify an exception to the Green Belt policies of restraint; and (ii) to the impact on the openness of the Green Belt and the character and appearance of the countryside. The accompanying text to the policy requires applicants to comply with the legal definition of a gypsy and to reside in or resort to the District or, exceptionally, other parts of Essex (para. 9.75). In addition, sites are required to meet 6 locational criteria (para. 9.76).

23. The Council has also referred to policies relating to the provision of mobile homes, but at the inquiry agreed that these are not of direct relevance to the appeal proposal (BE5-Structure Plan, GB5-Local Plan).
24. Tylers Cross Nursery together with the adjoining nursery to the south are surrounded by, but excluded from, the extensive Nazeing and South Roydon Conservation Area (document 6, appendix 12). Policy C1 of the Structure Plan and HC6 of the Local Plan seek to resist development which would be detrimental to the character, appearance or setting of conservation areas.
25. To facilitate the continued well being of the glasshouse industry and to limit any new glass to the area in which the industry is now concentrated, the Local Plan identifies specific areas, which include Tylers Cross Nursery and the nursery to the south, where the erection or re-erection of horticultural glasshouses will be permitted (policy E13).
26. Policies T4 of the Structure Plan and T17 of the Local Plan address the effects of traffic generated by development, including the impact on the existing system and on highway safety. Other policies referred to by the Council relate to the preservation and enhancement of the countryside and landscape, the protection of farmland, woods, trees and hedgerows, the protection of neighbours' amenities, and to the provision of landscaping as part of a development (NR1, NR10, NR15-Structure Plan, LL1, LL2, LL3, LL11, DBE9-Local Plan).
27. There is also a draft deposit version of the Essex Replacement Structure Plan which was published in February 1998 (the draft Structure Plan). Extracts are to be found in document 6, appendix 9 and document 7, appendix B. Although policies have been updated and reworded, the general thrust remains the same.
28. With regard to accommodation for gypsies, however, the draft Structure Plan recognises that there is an urgent need for additional sites given the scale of gypsy presence in Essex. Policy H6 requires the maintenance of existing provision and further site provision to be made in local plans where appropriate. Local plans should identify the extent of need within the area and set out proposals and/or criteria based policies to facilitate meeting the need. Proposals for sites should demonstrate the need for the site; be within a reasonable distance of local services and facilities; and be capable of assimilation into the landscape.

Matters not in dispute

29. The Appellants' gypsy status is not in dispute. It is further accepted that the proposal is for inappropriate development in the Green Belt having regard to the policies of the existing Development Plan, the draft Structure Plan, and national policy in PPG2.
30. With regard to the locational criteria in the accompanying text to policy H11 of the Local Plan, it is agreed that criteria (a), (e) and (f) are met in that the site is within reasonable distance of a settlement for access to schools, shops, etc.; that it is capable of providing an acceptable living environment; and that it is within an area frequented by gypsies.

The case for the Appellants

The material points are:-

31. The proposal is for a specialist form of accommodation for which there are very specific policies in the Development Plan. Whilst the policy context is somewhat deficient in that

there is no quantitative measurement of need, the Development Plan is up to date and accords with advice set out in Circular 1/94. National and regional guidance points to the need to provide for the housing requirements of all sectors of the community, and Circular 1/94 specifically aims to ensure that the planning system recognises the need for accommodation consistent with gypsies' nomadic lifestyle.

32. The repeal of the statutory duty of local authorities to provide accommodation on caravan sites for gypsies residing in or resorting to their area, and the introduction of the Criminal Justice Act 1994 introducing severe sanctions against unauthorised encampments, have made the gypsy way of life more difficult and have made the need for secure accommodation more important. It is hardly surprising, therefore, that the Appellants' children should seek such accommodation with their parents who already have land with a planning permission.
33. Essex has one of the largest numbers of gypsy caravans of any English County, and the Eastern Region has the largest concentration of any region. The statistics show a high and continuing number of unauthorised caravans, notwithstanding the considerable progress which has been made with public and private sites (document 4, annex A & document 12). There is only one Council site within the District and this is generally full.
34. The evidence of the need for more sites which may be drawn from the gypsy count statistics has been confirmed in the recent report of the Chief Executives' Association *Travellers in Essex* (document 7, appendix 13). In particular, recommendation 6 states that the urgent need for further gypsy sites in Essex warrants local planning authorities considering such a need as constituting an exceptional circumstance which could warrant a departure from policy and the consequent granting of planning permission. Attention is also drawn to recommendations 2 (increased commitment to ensure adequate provision is made), 7 (same priority as housing for non-gypsies), 12 (flexible programmes to cater for a wider variety of needs), and 21 (maximum capacity on new sites of 12-20 caravans).
35. It is not uncommon to find several generations of gypsies staying together on the same land reflecting the extended family tradition. Mr Brede and Mr Breaker have been at Tylers Cross Nursery since about 1983 and their children have been brought up and educated there. The additional pitches are required for their maturing children, many of whom are married or are about to be married (document 10). Mr Brede and Mr Breaker who are brothers in law, always travel together. Some of the older children now travel independently, but all use Tyler Cross Nursery as their residential base where the family can be together.
36. It is accepted that the 7 additional pitches would not be sufficient for the future needs of the younger members of the families but any further requirements would have to be dealt with separately at that time. The proposal is for a relatively modest number of households reflecting personal and current needs.
37. The council have referred to the case of *Ayres v. Secretary of State for the Environment and South Gloucestershire Council*, J.P.L (1997) 1121-1130, but this confirms that the matter of need is a material consideration (document 11). The suggestion that the development would result in the loss of land that could be used for horticulture is insignificant when there is no evidence of any increase in land under glass for this declining industry. The loss is far outweighed by the acute need of the Appellants' families.

38. No alternative solutions have been sought, nor has the Council's offer to discuss other sites been taken up, as the Appellants are specifically committed to the appeal site. It is already in their ownership and is the preferred location.
39. The appeal site was purchased at the same time as Silverwood and Springfield Yards. Part of the site has been fenced off and surfaced with chippings for over 5 years. It has been used to station caravans of visiting relatives of the Brede and Breaker families for some years on an informal basis, apparently without complaint. Whilst the proposal is specifically to accommodate their children, Mr Brede and Mr Breaker indicated at the inquiry that they would like to be able to continue to offer accommodation for visiting relatives.
40. With regard to the visual impact on the Green Belt and surrounding countryside, this would be minimal as the site forms part of a larger parcel of land accommodating various businesses and activities. It is relatively secluded and is not visually prominent as it is tucked between glasshouses. The adjoining public footpath is impassable and the development would barely be seen from the surrounding area, as illustrated by the Council's photographs (document 7, appendix 3).
41. The proposal would thus also have a minimal impact on the extensive neighbouring conservation area, which specifically excludes Tylers Cross Nursery and appears to have been designated primarily for its landscape value despite government advice to the contrary (document 7, appendix 12). There would be no undue visual intrusion for the occupiers of nearby residential properties as the nearest house, Merriemount, is some 80m from the site.
42. The opportunity would be taken to implement a scheme of planting and landscape treatment in discussion with the Council and concentrating on the boundaries to improve screening and the general appearance of the site. This could be the subject of a condition.
43. The access to Tylers Cross Nursery has existed for many years. It is not within the control of the Appellants, and the Council have not previously raised concerns regarding its use. It is located along a stretch of road where there are many other accesses and a good proportion of drivers using Epping Road would have a good knowledge of the local area. It is accepted that visibility from the access in a southerly direction is restricted by the curve of the road, but the line of sight could be improved to some degree by the management of roadside vegetation and in particular by the removal of the dead trees.
44. Traffic speeds along Epping Road are low and there is no evidence of any accidents arising from the use of the access, despite regular use by articulated lorries. Although there would be an increase in traffic movements as a result of the proposal, there is the possibility of shared trips as all occupiers would belong to one family, and numbers would also significantly reduce when members of the family were travelling. In addition, caravans would only be moved onto and off the site at the beginning and end of periods of travelling.
45. Reference is made to 3 appeal decisions which allowed gypsy sites within the Green Belt (document 4, annexes B, C and D). It is accepted that these carry limited weight in the determination of this appeal as they relate to the specific circumstances of those cases but particular attention is drawn to paragraph 17 of Annex B; paragraphs 7-10 of Annex C; and paragraphs 12 and 13 of Annex D. Furthermore, additional pitches on existing sites have been allowed in the District at Mamelons Farmyard, Waltham Cross and on the local authority site at Stanford Rivers (document 7, appendix 14).

46. The combination of current government legislation and policy towards gypsies, as relevant to the particular past history and present circumstances of the Appellants' families; the continuing shortfall of accommodation in the District, County, Region and Country; the particular history and suitability of the appeal site for the development; and other relevant appeal decisions, amount to very special circumstances sufficient to outweigh the presumption against inappropriate development in the Green Belt. The proposal, therefore, complies with the principal policies of the Development Plan addressing the provision of gypsy sites. Other objections raised by the Council are of little relevance and should not be allowed to cloud the primary consideration.

The case for the Local Planning Authority

The material points are:-

47. The Green Belt has remained largely unaltered since it was first designated in 1957. The boundaries are quite closely drawn around built up areas to prevent the encroachment of development into the countryside and to prevent the coalescence of settlements. Its success is evident by the fact that the rural character of large parts of the District has successfully been maintained. The Local Plan allocates sufficient land to fulfil the requirements of the Structure Plan so that there is no need to develop housing in the Green Belt.
48. Government advice is that Green Belt land should not be allocated for gypsy sites in development plans and Circular 1/94 withdrew previous guidance indicating that it may be necessary to accept the establishment of gypsy sites in Green Belts. The inappropriate development proposed is, by definition, harmful and the harm would manifest itself by increasing the urbanisation of a rural site in the gap between Harlow and Broxbourne, and by encroaching into an open space that should form part of the countryside.
49. The site lies to the south side of the Nursery and is separated from adjoining land and properties to the south and east by a thin, mainly deciduous tree/hedge line (document 7, appendix 2). Nearby fields have similar, but more dense, demarcation (document 7, appendix 3). The 7 mobile homes, touring caravans and parked vehicles would intrude upon the surrounding rural area, particularly in winter months, and would intensify the developed appearance of the Nursery. Whilst it is accepted that the footpath along the southern side of the site is overgrown, it is a designated route and thus there are public vantage points close by (document 7, appendix 11).
50. Additional landscaping around the boundaries would help to screen the development but this would not overcome the loss of openness, and evergreen planting would appear incongruous. In addition, the site would visually intrude upon the outlook from neighbouring residential properties.
51. The south eastern corner of the appeal site abuts the Nazeing and South Roydon Conservation Area boundary and the proposal would harm the surrounding historic landscape, one of the principal reasons for the designation (document 8, appendix 12). The development would thus conflict with policy C1 of the Structure Plan and policy HC6 of the Local Plan.
52. It is accepted that the appeal site lies within a nursery already developed with a significant area of glasshouses. The Local Plan, however, recognises the importance of the long established horticultural industry and policy E13 makes provision for new and replacement glasshouses within specified areas, of which Tylers Cross Nursery is one (document 7,

appendix 10-proposals map & pages 110 & 111). The existence of the glasshouses do not, therefore, justify other forms of development. Moreover, the loss of the land could increase pressure to build glasshouses elsewhere in the future.

53. An automatic traffic count carried out during the week commencing 15 May 1999 revealed some 13,300 vehicles passing the site during an average weekday with 1,228 between 0800-0900 hours and 1,324 between 1700 and 1800 (document 6, appendix POE/03) which is reasonably heavy for the type of road. A speed survey carried out on 19 May 1999 confirmed that traffic generally conforms to the 40mph speed limit (document 6, appendix POE/06).
54. For busy private accesses such as that to Tylers Cross Nursery, PPG13 requires 120m visibility along the road in both directions from a point 4.5m. back from the junction. This is not achieved. Nonetheless, Annex D of PPG13 accepts that it is not always possible to comply fully with visibility standards and local advice is found in Essex County Council's *The Highway Aspects of Development Control* (document 5 & document 6, appendix POE/03).
55. From a reduced distance back from the junction of 2.4m, a visibility distance of 120m can be achieved to the north and this is considered to be acceptable. Even with the reduction, however, visibility to the south is restricted to 60m which is well below minimum standards (document 6, appendix POE/07). Whilst it is accepted that it is not possible to be exact about the distances due to the very wide bell-mouth and informal layout of the junction, any allowance made would not add significantly to views of approaching traffic.
56. The substandard nature of the junction is extremely hazardous as drivers of vehicles approaching from the south and drivers of vehicles emerging from the access cannot see one another at a sufficient distance. The removal of the dead trees would not result in a significant improvement. Any increase in the use of the access would unacceptably add to traffic danger and the development is likely to generate some 42 additional movements per day. The proposal thus conflicts policy T4 of the Structure Plan and T17 of the Local Plan which seek to maintain and improve road safety (document 8, appendices A & C).
57. It is accepted that there is a shortfall of accommodation for gypsies nationally, in the County and particularly within the District. However, the existing gypsy sites of Silverwood and Springfield do not provide a reason for further expansion at this location. The children, for whom the accommodation would be provided, clearly resort to the area and have close family ties, but the need for the whole family to live on one site is desirable rather than essential. None of the Appellants' children, other than those who would continue to live with their parents, is still at school and none has to live on the site because of employment. There may be an alternative, more suitable solution elsewhere in the area but no search has been made and the Council's offer to discuss the matter was not taken up.
58. The recommendations in the Chief Executives' Association report *Travellers in Essex* should carry little weight in this appeal as the document has no statutory status and it has been criticised by the District Council (document 7, appendix 13). If the appeal were to be allowed there would be the possibility of pressure for a further increase in accommodation in the future.
59. Attention is drawn to the case of *Ayres v. Secretary of State for the Environment and South Gloucestershire Council*, J.P.L (1997) 1121-1130 where it was held that gypsy sites have no special status in relation to the Green Belt. They are not one of the limited categories of use

which is considered to be appropriate in such an area. The need for a gypsy caravan site is not a special consideration in its own right as it had been under the earlier Circulars. Any proposal must be considered in the light of normal Green Belt policies (document 11). In the current case nothing has been presented to prove that the need for the development on the appeal site, for these particular families, is so great so as to amount to a very special circumstance sufficient to outweigh the harm to the Green Belt.

60. The proposal is considered to be unacceptable having regard to the considerations set out in criteria (i) and (ii) of policy H11 of the Local Plan and also having regard to locational criteria (b), (c) and (d) in the accompanying text.

Written representations

61. Letters have been received from **Nazeing Parish Council**, from **D G Mason** at Ivy Cottage, Tylers Road, **Mrs J Murphy** at Merriemount, Common Road and **L E Somerfield** at Fairlawn, Broadley Common (document 3).
62. The points variously made are that the development would be inappropriate in the Green Belt, at odds with government advice, and in conflict with Development Plan policies. The Appellants' families have lived on the site for 14 years without requiring further mobile homes. The Green Belt would be eroded and it would be difficult to refuse further applications in the area. The development would harm the visual appearance of nearby residential properties and the rural character of the area. The Nursery is already overused commercially with operations continuing at night and at weekends. The access is unsuitable. The Appellants' frequent bonfires already cause a nuisance for neighbours.
63. Written representations received in connection with the application as opposed to the appeal are attached to the Appeal Questionnaire.

Conditions

64. Four possible conditions suggested for the Appellants were discussed at the inquiry. The first would restrict occupation of the site to the children of Mr J Brede and Mr S Breaker, and to their dependants, because permission would only be granted having regard to the special circumstances of these particular families. The possibility of widening the condition to enable occupation by other relations was resisted by the Council as this would be difficult to enforce and would go beyond the arguments put forward to justify the inappropriate development in the Green Belt.
65. The second condition would prevent the site being used for business purposes or for open storage in order to limit the impact on the area, but with the exception of the provision of one lorry parking space per pitch (not HGV). To prevent the overdevelopment of the site, the third condition suggested would limit the number of mobile homes/caravans per pitch to 2, one of which should be a touring caravan. Finally, it was agreed that a landscaping scheme for the site should be submitted for approval within 3 months of any permission granted, to be implemented in accordance with a timetable to be agreed in writing with the local planning authority.

Conclusions

66. The following conclusions are based on my report of the oral and written representations, and on my inspection of the site and its surroundings. In this section the numbers in square brackets [n] refer to paragraphs in the preceding sections of the report from which these conclusions are drawn.
67. One matter of law has been raised [37, 59]. My view is that the starting point for the determination of the appeal is the Development Plan. The need for the gypsy caravan site is, nonetheless, a matter to be taken into account and to be weighed in the balance along with all other material considerations.
68. There is no dispute that the Appellants are gypsies and that the development is inappropriate in the Green Belt having regard to the meaning within PPG2 and the policies of the Development Plan [29]. In these circumstances there appear to be 3 main considerations in this appeal. These are: firstly the effect of the development on the character and appearance of the area, taking into account the Green Belt designation, the rural setting, and the neighbouring conservation area; secondly the effect on the conditions of highway safety along the B181, Epping Road; and, thirdly whether there are any very special circumstances sufficiently compelling to outweigh the presumption against inappropriate development in the Green Belt and to justify the development in the face of any other objections.
69. Looking at the first consideration, inappropriate development is, by definition, harmful to the Green Belt. The site is predominantly open, albeit that part is periodically used for the unauthorised stationing of caravans [10, 11, 39]. The spread of development over the whole site would result in a serious loss of openness, the most important attribute of the Green Belt, which would add to the harm "by definition" [17, 48].
70. Tylers Cross Nursery currently forms a hotchpotch of buildings, spaces and uses which, to my mind, already intrudes upon the pleasing rural landscape [5, 6, 12]. The proposal would add to and consolidate the developed appearance of part of the southern side of the Nursery, producing a harder edge and undermining the current soft transition to adjoining land. The proposal would, therefore, increase the intrusion of the Nursery upon the rural surroundings and upon the Nazeing and South Roydon Conservation Area and would thus conflict with the policies of the Development Plan designed to preserve and enhance such areas and their setting. [24, 26, 49, 51]. Although policy E13 of the Local Plan permits the erection of glasshouses at the Nursery, this is for a specific purpose, and does not provide justification for other forms of development [52].
71. The appeal site does not, however, immediately adjoin the open countryside, as there is a separate nursery to the southern side [11]. In addition, public vantagepoints are limited and in the main are distant and generally screened by intervening vegetation [13]. From Common Road, across the car park and garden of the public house, the tops of the mobile homes and caravans would be seen. Nonetheless, they would be viewed against a backdrop of other structures on the Nursery, notably the large utilitarian shed which I found to be particularly prominent [13].
72. The adjoining public footpath could be cleared and made available for use which would enable public views of the site from close quarters [13, 40, 49]. However, it seems to me that a landscaping scheme, concentrating on the boundaries of the site, would do much to

screen the development from all public viewpoints [42, 50]. In my opinion, there is no reason why some suitable evergreen species should not be included in a planting scheme, the details of which could form the subject of a condition for subsequent consideration.

73. The occupiers of residential properties along Common Road are able to see the site, particularly from upper floor windows [12, 41, 50]. Nevertheless, I consider that the site is sufficiently distant from these properties that the development would not unacceptably intrude upon the occupiers' outlook.
74. Concluding on the first main consideration the proposal would harm the character and appearance of the area. The loss of openness would damage the integrity of the Green Belt and the consolidation of development on the Nursery would harm the rural scene and the setting of the neighbouring conservation area. The apparent visual damage, however, would be limited by the particular characteristics of the locality and could be further mitigated by the implementation of suitable landscaping. Nonetheless, the fact that the development might not be easily seen is not, by itself, a good argument as it could be repeated too often to justify development in the Green Belt/countryside.
75. Turning to the second main consideration, although I found visibility from the access to Tylers Cross Nursery in a northerly direction along Epping Road to be somewhat restricted, the Council say that it is acceptable [8, 55]. It seems to me that the difference in opinion arises from the growth of roadside vegetation since the Council inspected the access in May, and that the situation would be rectified if the hedge along the road were to be trimmed back.
76. In a southerly direction, however, visibility is more limited and cannot be improved sufficiently by the removal of the dead trees and the maintenance of roadside planting [8, 43, 55]. There will, therefore, always be potential conflict between traffic approaching from this direction and vehicles emerging from the access. Any increase in the use of the access would add to this hazard and the proposal cannot be said to further the aims of the transport policies of the Development Plan which seek to maintain and improve road safety [26, 56].
77. The access is, however, in regular use by a variety of vehicles including articulated lorries [8, 43, 44]. Although the road is reasonably busy, traffic speeds between the junctions to the north and south of the access generally conform to the 40mph speed limit [7, 53]. With a good number of accesses along this stretch of the road, it seems to me that drivers on the Epping Road exercise due caution, being alive to the possibility of emerging vehicles [7, 43, 53]. This appears to be borne out by the lack of any recorded accidents arising from the use of the access [44].
78. The estimated increase of 42 additional vehicular movements per day assumes full occupation of the proposed pitches and does not take into account the periods when members of the family would be away travelling [56, 44]. Moreover, I consider that the figure would be further reduced as a result of shared trips, which would be likely to take place as all the occupiers would be closely related [35, 44].
79. Every additional vehicle emerging from a substandard access presents a potential traffic hazard and thus the proposal would have a harmful effect on the conditions of highway safety along the B181, Epping Road. In my view, this contributes to the unsuitable nature of the site in addition to the objections found in relation to the first main consideration. However, taking into account existing traffic conditions along Epping Road and the already

frequent use of the access, I believe that, on balance, the increased use of the access arising from the development is not an overriding factor sufficient to justify a refusal on highway safety grounds alone.

80. With regard to the *third consideration*, the policies of the Development Plan seek to make provision for gypsies [21, 22]. Policy H6 of the draft Structure Plan which is more up to date than the existing Structure Plan, reflecting current government guidance, requires local plans to make further site provision for gypsies residing in or resorting to the area where appropriate [28]. Criterion (i) of policy H11 of the Local Plan recognises that in the case of gypsies, there might be special circumstances which would justify an exception to the Green Belt policies of restraint [22].
81. The Appellants' children, for whom the proposed pitches are intended, are of an age where they might be expected to live in separate accommodation from their parents [35]. Clearly, they have strong links with the area both historically and taking into account the close family ties [35, 57]. In my opinion, it is not unreasonable for them to seek to remain in the area to which they are associated.
82. There is a recognised severe shortage of gypsy accommodation within the County and District [28, 33, 34, 57]. In addition, all land outside identified towns and settlements in the District is Green Belt, so that it is unlikely that the children would find suitable accommodation in the area that is not in Green Belt [20,]. It is understandable that the appeal site is preferred as it is already owned by the Appellants and would enable the families to remain living together [32, 35, 38]. Nevertheless, there is no essential need for the children to live on this particular site rather than in the general area, such as schooling or local employment [57].
83. No search has been undertaken to ascertain whether other more suitable sites exist; neither has the Council's offer to discuss alternative solutions been taken up [38, 57]. Whilst I consider that there are strong reasons why the children should be able to remain in the locality, nothing has been presented to demonstrate that there is no prospect of finding suitable alternative accommodation so as to indicate that it is necessary for them to remain on the appeal site. My conclusion on the third main consideration is, therefore, that the personal circumstances of the Appellants' families do not amount to very special circumstances sufficiently compelling to outweigh the presumption against inappropriate development in the Green Belt or to justify the development in the face of the other objections identified.
84. In my view, if this appeal were to be allowed without special justification, the Council would find it difficult to resist further pitches for these families in the future [36, 58]. In addition, it would be difficult to resist applications for the expansion of the other 3 gypsy sites located at Tylers Cross Nursery.
85. Section 54A of the Town and Country Planning Act 1990 requires the appeal to be determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case, the Local Plan includes a specific and detailed policy, H11, relating to gypsy caravan sites within the Green Belt [22]. I consider the proposal to be in conflict with this policy as I have found no special circumstances as required by criterion (i) to justify an exception to the Green Belt policies of restraint. Moreover, in the absence of such special circumstances, there is nothing to outweigh the harmful impact on the openness of the Green Belt and on the character and appearance of the countryside; the consideration in criterion (ii) of the policy.

86. With regard to the locational criteria in the accompanying text to policy H11, the parties agree that criteria (a), (e) and (f) are met and I find no reason to reach a different conclusion [22, 30]. Moreover, I believe that criterion (b), that the site should not be in close proximity to residential properties, is met since the nearest house is approximately 80m from the site. It is difficult to assess whether the site would have a minimum impact upon the appearance of the countryside as required by criterion (c) without knowing whether there are alternative sites which would have less of an impact. Finally criterion (d) requires the site to have a convenient and safe access to the main road network and I have already identified the hazards associated with the use of the existing access to the Nursery.
87. Taking other matters raised in evidence into account, I consider that the loss of land that might in future be used for horticulture carries little weight in the face of the current state of that industry and having regard to the acknowledged acute shortage of gypsy accommodation [37, 52]. The Chief Executives' Association report *Travellers in Essex* confirms the need for further gypsy accommodation, but its recommendations do not override the provisions of the Development Plan [34, 58].
88. The 3 appeal decisions specifically referred to, and the 2 sites within the District where additional pitches have been allowed, demonstrate that there are instances where gypsy site provision in the Green Belt has been accepted. Nonetheless, the appeal falls to be determined having regard to the specific circumstances of this case in relation to the provisions of the relevant Development Plan [45].
89. Having regard to my findings on the 3 main considerations and that I have found nothing to indicate that the appeal should be determined otherwise than in accordance with the Development Plan, I conclude that the development should not be allowed. If the Secretary of State disagrees and decides to allow the appeal then the conditions set out in paragraphs 64 and 65 of my report should be imposed for the reasons given.

A handwritten signature in black ink, appearing to read 'D. Bell', is written in a cursive style. The signature is enclosed within a large, hand-drawn circle.

REPORT

APPEARANCES

FOR THE APPELLANT:

Dr R K Home MA(Cantab) PhD DipTP MRTPI Acting as Advocate and Witness. 91 Mortimer Road, London N1 4LB

He called

Mr J Brede Appellant. Silverwod Yard, Tylers Cross Nursery, Broadley Common, Nazeing, Essex

Mr S Breaker Appellant. Springfield Yard, Tylers Cross Nursery, Broadley Common, Nazeing, Essex

FOR THE LOCAL PLANNING AUTHORITY:

Mr M Beard Of Counsel, instructed by the solicitor to the Council

He called

Mr R Farahmand MSc DIC MA DIR Transport and Highways Consultant. c/o Epping Forest District Council
MCIT

Mr I Phillips BA(Hons) MRTPI Planning Consultant. c/o Epping Forest District Council

DOCUMENTS

Document 1 List of persons present at the inquiry

Document 2 Notification of the inquiry and list of persons notified

Document 3 Representations received

Document 4 Annexes A -D to Dr Home's evidence

Document 5 Paragraphs 4.4.1- 4.4.8 of Mr Farahmand's proof of evidence

Document 6 Appendices POE/01- POE/07 to Mr Farahmand's evidence

Document 7 Appendices 1-14 to Mr Phillips' evidence

Document 8 Documents A-J appended to the Council's Pre inquiry Statement

Document 9 Copies of 2 Enforcement Notices dated 5 March 1984 relating to land at Tylers Cross Nursery

Document 10 Pages 1 and 2 of the supporting statement accompanying the application

Document 11 Case Law Report, extract from [1997] J.P.L. pages 1121-1130

Document 12 Counts of gypsy caravans in the eastern region supplied by DETR

PLANS

Plan A Application drawing number 961/1

REPORT

PHOTOGRAPHS

Photo 1 Plate 1 appended to Mr Farahmand's evidence

Photo 2 Photographs of the appeal site and its surroundings, to be found at appendices 2 and 3 to Mr Phillips' evidence

I.S.L./J.P./B.L./R.S./J.S./N.B.D./N.W.D./W.R./C.D.E./A.M./M.N./P.J.G./G.F./
GO-East R.A./J.G./P.S.S./I.S.W./C.W.N./T.C./M.K.



GOVERNMENT OFFICE
FOR THE EAST OF ENGLAND

PF. 9774.

N.B.

Dr R K Home
Chartered Town Planner
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LONDON
N1 4LB

ANDREW N HAYES
Planning & Transport Division
Heron House
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Tel: 01234 796330
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5 January 2000

Our Ref: APP/J1535/A/99/1017660
Your Ref: Brede

Dear Sir

H 11

TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 78(1)
APPEAL BY J BREDE & S BREAKER
LAND AT SILVERWOOD AND SPRINGFIELD YARDS TYLERS CROSS
NURSERY BROADLEY COMMON NAZEING
APPLICATION NO: EPF/960/98

1. I am directed by the Secretary of State for the Environment, Transport and the Regions to say that consideration has been given to the report of the Inspector, Miss B M Campbell, BA(Hons), MRTPI, who held a local inquiry into your clients' appeal against the decision of Epping Forest District Council to refuse planning permission for the change of use of land to accommodate an extension of the existing travellers' mobile home/caravan site, with an increase of seven homes, making a total of nine on land at Silverwood and Springfield Yards, Tylers Cross Nursery, Broadley Common, Nazeing, Essex.

2. The Inspector, whose conclusions are reproduced in the annex to this letter, recommended that the appeal be dismissed. A copy of her report (IR) is enclosed.

3. The Secretary of State has given careful consideration to all the arguments for and against the appeal proposal and to the Inspector's conclusions and recommendation. In considering the report, the Secretary of State has read "document 6, appendix 12" in lines 2 and 3 of paragraph 24 as "document 7, appendix 12".

The Nazeing and South Roydon Conservation Area

4. Tylers Cross Nursery, together with the adjoining nursery to the south, are surrounded by, but excluded from, the Nazeing and South Roydon Conservation Area. In determining your clients' appeal, the Secretary of State considers it appropriate that he should have regard to the desirability of preserving or enhancing the character or appearance of the Conservation



INVESTOR IN PEOPLE

Area, as is required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

The Development Plan

5. Under section 54A of the Town and Country Planning Act 1990, as introduced by section 26 of the Planning and Compensation Act 1991, the Secretary of State is required to determine your clients' appeal in accordance with the development plan, unless material considerations indicate otherwise. The development plan for the area consists of the adopted Second Alteration Essex Structure Plan 1995, together with the retained and unaltered policies from the approved Structure Plan 1985 and the approved First Alteration 1991, and the adopted Epping Forest District Local Plan 1998.

6. In determining your clients' appeal, the Secretary of State has had particular regard to Structure Plan policies S1, S6, S7, S9, BE6, C1, T4, NR1, NR10 and NR15 and to Local Plan policies GB1, GB2, H11, HC6, E13, T17, LL1, LL2, LL3, LL11 and DBE9. Details of those policies are set out in paragraphs 20 -22 and 24 - 26 of the Inspector's report.

7. The Essex Replacement County Structure Plan has been placed on deposit and an Examination in Public has been held. Although not part of the development plan, the relevant emerging policies within the Replacement Structure Plan are a material consideration in the determination of the appeal. The Plan recognises that there is an urgent need for additional sites given the scale of gypsy presence in Essex. That need is reflected in emerging policy H6, details of which are set out in paragraph 28 of the Inspector's report. The Secretary of State has had regard to that policy in determining your clients' appeal.

Planning Policy Guidance Note 2: Green Belts and National Guidance on Gypsy Site Provision

8. Government policy on Green Belts is set out in Planning Policy Guidance Note 2 (PPG2). That policy, as reflected generally in the development plan, states that there is a general presumption against inappropriate development in the Green Belt and that such development should not be approved except in very special circumstances. Paragraph 3.4 of PPG2 states that the construction of new buildings inside a Green Belt is inappropriate unless it is for a particular purpose. The purposes listed do not include the use of land for gypsy caravan sites. Inappropriate development is, by definition, harmful to the Green Belt. It is for the Applicant to show why permission for such development should be granted.

9. Guidance on the provision of sites for gypsy caravans is set out in Department of the Environment Circular 1/94. In that guidance, the Government recognised that many gypsies would prefer to find and buy their own sites to develop and manage. Local Plans are, wherever possible, to identify locations suitable for gypsy sites. Where that is not possible, plans should set out clear, realistic criteria for suitable locations, as a basis for site provision policies. The guidance repeats the advice that gypsy sites are not regarded as being among those uses of land which are normally appropriate in Green Belts.

The Main Issues in the Appeal

10. Your clients' gypsy status was not in dispute. It was also accepted that the proposal was for inappropriate development in the Green Belt (IR 29 & 68). The Secretary of State considers that the main issues in your clients' appeal are whether:

i) the proposed development would harm the character and appearance of the area, having regard to the Green Belt designation, the rural setting, and the neighbouring Conservation Area;

ii) the proposed development would have a detrimental effect on highway safety along the B181, Epping Road; and

iii) there are any very special circumstances which would justify allowing the inappropriate development.

Issue (i) – The Harm to the Character and Appearance of the Area

11. The Inspector concluded, for the reasons given in paragraphs 69 – 73 of her report, that the proposal would harm the character and appearance of the area. The loss of openness would damage the integrity of the Green Belt and the consolidation of development on the Nursery would harm the rural scene and the setting of the neighbouring conservation area. The apparent visual damage, however, would be limited by the particular characteristics of the locality and could be further mitigated by the implementation of suitable landscaping. The Secretary of State agrees with the Inspector. He accepts the Inspector's comment that the fact that development might not be easily seen was not, by itself, a good argument as it could be repeated too often to justify development in the Green Belt/countryside.

Issue (ii) – Highway Safety

12. The Secretary of State agrees with the Inspector that every additional vehicle emerging from a substandard access presents a potential traffic hazard (IR 79). He also agrees with the Inspector, for the reasons given in paragraphs 75 – 78 of the report, that the appeal proposal would have a harmful effect on the conditions of highway safety along the B181, Epping Road. He accepts that that contributes to the unsuitable nature of the site, in addition to the objections found in relation to the first main consideration. However, the Inspector concluded that, on balance, the increased use of the access arising from the development is not an overriding factor sufficient to justify a refusal on highway grounds (IR 79). The Secretary of State agrees.

Issue (iii) – The Very Special Circumstances

13. The Inspector noted that policy H6 of the draft Replacement Structure Plan is more up to date than the existing Plan and that it requires Local Plans to make further site provision for gypsies residing in or resorting to the area where appropriate. Criterion (i) of Local Plan

policy H11 recognises that in the case of gypsies, there might be special circumstances which would justify an exception to the Green Belt policies of restraint (IR 80). The Secretary of State agrees that your clients' children, for whom the proposed pitches are intended, are of an age where they might be expected to live in separate accommodation from their parents. He accepts that they have strong links with the area both historically and taking into account the close family ties. He shares the Inspector's opinion that it is not unreasonable for them to seek to remain in the area to which they are associated (IR 81).

14. In considering this appeal, the Secretary of State has given weight to the recognised severe shortage of gypsy accommodation within the County and District. He has also taken account of the fact that all land outside identified towns and settlements in the District is Green Belt. Although the Secretary of State accepts that there is no essential need for the children to live on that particular site, rather than in the general area, he has given weight to your clients' argument that it is not uncommon to find several generations of gypsies staying together on the same land reflecting the extended family tradition (IR 35). He considers that the importance of the extended family tradition outweighs the fact that there is now no essential need for the children to reside on the appeal site.

15. The proposed development would harm the character and appearance of the area and the openness of the Green Belt. The consolidation of development would harm the rural scene and the setting of the conservation area. In addition, the increased use of the access onto Epping Road contributes to the unsuitable nature of the appeal site. However, the apparent visual damage would be limited by the particular characteristics of the locality and could be further mitigated by suitable landscaping. The effect on road safety is also not an overriding factor sufficient to justify a refusal on safety grounds alone. When added to the harm to the character and appearance of the area and the Green Belt, the Secretary of State is satisfied that the effect of the appeal proposal on road safety is still not enough to justify refusal. Your clients have not undertaken a search to ascertain whether other more suitable sites exist or taken up the Council's offer to discuss alternative solutions. Nevertheless, the Secretary of State considers that, even assuming that the requisite site or sites could be identified, they would in all probability also be in the Green Belt. In the Secretary of State's opinion, this factor, together with the desirability of maintaining the traditional gypsy family unit, outweigh the disadvantages identified by the Inspector. Taken with the severe shortage of gypsy accommodation in Essex and the District, he is satisfied that, in this instance, very special circumstances exist which justify allowing your clients' appeal.

Planning Conditions

16. The Secretary of State has had regard to the conditions which should be imposed on the grant of planning permission. The Inspector considered that if the appeal were to be allowed, then the conditions set out in paragraphs 64 and 65 of her report should be imposed. The Secretary of State agrees. He also agrees with the Council that the possibility of widening your clients' first suggested condition to enable occupation by other relations of your clients should not be accepted. He shares the Council's view that such a widening of the condition

would be difficult to enforce and would go beyond the arguments put forward to justify the inappropriate development in the Green Belt (IR 64).

The Secretary of State's Formal Decision

17. For the reasons given above, the Secretary of State does not accept the Inspector's recommendation that the appeal be dismissed. Accordingly, he allows your clients' appeal and hereby grants planning permission for the change of use of land to accommodate an extension of the existing travellers' mobile home/caravan site, with an increase of seven homes, making a total of nine on land at Silverwood and Springfield Yards, Tylers Cross Nursery, Broadley Common, Nazeing, Essex, in accordance with Application No EPF/960/98, subject to the following conditions:

i) The use hereby permitted shall be carried on only by the children of Mr J Brede and Mr S Breaker and their dependants.

ii) No more than one lorry parking space per pitch shall be provided, and no such space shall be used for parking a Heavy Goods Vehicle. Subject thereto, no part of the development hereby permitted shall be used for any business or open storage purposes.

iii) The number of mobile homes/caravans per pitch hereby permitted shall be limited to two, one of which shall be a touring caravan.

iv) Within three months of the date of this permission, details of a scheme for the landscaping of the site shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be carried out only in accordance with the approved details and only in accordance with a timetable to be agreed in writing beforehand by the Local Planning Authority.

18. Your clients' attention is drawn to the fact that an applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused, or is granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

19. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than section 57 of the Town and Country Planning Act 1990.

20. A separate note is enclosed setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by the making of an application to the High Court.

21. Copies of this letter have been sent to Epping Forest District Council, those parties who appeared at the inquiry and the local residents who asked to be notified of the Secretary of State's decision.

Yours faithfully

Andrew N Hayes

ANDREW N HAYES
Authorised by the Secretary of State
to sign in that behalf

Conclusions

66. The following conclusions are based on my report of the oral and written representations, and on my inspection of the site and its surroundings. In this section the numbers in square brackets [n] refer to paragraphs in the preceding sections of the report from which these conclusions are drawn.
67. One matter of law has been raised [37, 59]. My view is that the starting point for the determination of the appeal is the Development Plan. The need for the gypsy caravan site is, nonetheless, a matter to be taken into account and to be weighed in the balance along with all other material considerations.
68. There is no dispute that the Appellants are gypsies and that the development is inappropriate in the Green Belt having regard to the meaning within PPG2 and the policies of the Development Plan [29]. In these circumstances there appear to be 3 main considerations in this appeal. These are: firstly the effect of the development on the character and appearance of the area, taking into account the Green Belt designation, the rural setting, and the neighbouring conservation area; secondly the effect on the conditions of highway safety along the B181, Epping Road; and, thirdly whether there are any very special circumstances sufficiently compelling to outweigh the presumption against inappropriate development in the Green Belt and to justify the development in the face of any other objections.
69. Looking at the first consideration, inappropriate development is, by definition, harmful to the Green Belt. The site is predominantly open, albeit that part is periodically used for the unauthorised stationing of caravans [10, 11, 39]. The spread of development over the whole site would result in a serious loss of openness, the most important attribute of the Green Belt, which would add to the harm "by definition" [17, 48].
70. Tylers Cross Nursery currently forms a hotchpotch of buildings, spaces and uses which, to my mind, already intrudes upon the pleasing rural landscape [5, 6, 12]. The proposal would add to and consolidate the developed appearance of part of the southern side of the Nursery, producing a harder edge and undermining the current soft transition to adjoining land. The proposal would, therefore, increase the intrusion of the Nursery upon the rural surroundings and upon the Nazeing and South Roydon Conservation Area and would thus conflict with the policies of the Development Plan designed to preserve and enhance such areas and their setting. [24, 26, 49, 51]. Although policy E13 of the Local Plan permits the erection of glasshouses at the Nursery, this is for a specific purpose, and does not provide justification for other forms of development [52].
71. The appeal site does not, however, immediately adjoin the open countryside, as there is a separate nursery to the southern side [11]. In addition, public vantagepoints are limited and in the main are distant and generally screened by intervening vegetation [13]. From Common Road, across the car park and garden of the public house, the tops of the mobile homes and caravans would be seen. Nonetheless, they would be viewed against a backdrop of other structures on the Nursery, notably the large utilitarian shed which I found to be particularly prominent [13].
72. The adjoining public footpath could be cleared and made available for use which would enable public views of the site from close quarters [13, 40, 49]. However, it seems to me that a landscaping scheme, concentrating on the boundaries of the site, would do much to

REPORT

screen the development from all public viewpoints [42, 50]. In my opinion, there is no reason why some suitable evergreen species should not be included in a planting scheme, the details of which could form the subject of a condition for subsequent consideration.

73. The occupiers of residential properties along Common Road are able to see the site, particularly from upper floor windows [12, 41, 50]. Nevertheless, I consider that the site is sufficiently distant from these properties that the development would not unacceptably intrude upon the occupiers' outlook.
74. Concluding on the first main consideration the proposal would harm the character and appearance of the area. The loss of openness would damage the integrity of the Green Belt and the consolidation of development on the Nursery would harm the rural scene and the setting of the neighbouring conservation area. The apparent visual damage, however, would be limited by the particular characteristics of the locality and could be further mitigated by the implementation of suitable landscaping. Nonetheless, the fact that the development might not be easily seen is not, by itself, a good argument as it could be repeated too often to justify development in the Green Belt/countryside.
75. Turning to the second main consideration, although I found visibility from the access to Tylers Cross Nursery in a northerly direction along Epping Road to be somewhat restricted, the Council say that it is acceptable [8, 55]. It seems to me that the difference in opinion arises from the growth of roadside vegetation since the Council inspected the access in May, and that the situation would be rectified if the hedge along the road were to be trimmed back.
76. In a southerly direction, however, visibility is more limited and cannot be improved sufficiently by the removal of the dead trees and the maintenance of roadside planting [8, 43, 55]. There will, therefore, always be potential conflict between traffic approaching from this direction and vehicles emerging from the access. Any increase in the use of the access would add to this hazard and the proposal cannot be said to further the aims of the transport policies of the Development Plan which seek to maintain and improve road safety [26, 56].
77. The access is, however, in regular use by a variety of vehicles including articulated lorries [8, 43, 44]. Although the road is reasonably busy, traffic speeds between the junctions to the north and south of the access generally conform to the 40mph speed limit [7, 53]. With a good number of accesses along this stretch of the road, it seems to me that drivers on the Epping Road exercise due caution, being alive to the possibility of emerging vehicles [7, 43, 53]. This appears to be borne out by the lack of any recorded accidents arising from the use of the access [44].
78. The estimated increase of 42 additional vehicular movements per day assumes full occupation of the proposed pitches and does not take into account the periods when members of the family would be away travelling [56, 44]. Moreover, I consider that the figure would be further reduced as a result of shared trips, which would be likely to take place as all the occupiers would be closely related [35, 44].
79. Every additional vehicle emerging from a substandard access presents a potential traffic hazard and thus the proposal would have a harmful effect on the conditions of highway safety along the B181, Epping Road. In my view, this contributes to the unsuitable nature of the site in addition to the objections found in relation to the first main consideration. However, taking into account existing traffic conditions along Epping Road and the already

REPORT

- frequent use of the access, I believe that, on balance, the increased use of the access arising from the development is not an overriding factor sufficient to justify a refusal on highway safety grounds alone.
80. With regard to the third consideration, the policies of the Development Plan seek to make provision for gypsies [21, 22]. Policy H6 of the draft Structure Plan which is more up to date than the existing Structure Plan, reflecting current government guidance, requires local plans to make further site provision for gypsies residing in or resorting to the area where appropriate [28]. Criterion (i) of policy H11 of the Local Plan recognises that in the case of gypsies, there might be special circumstances which would justify an exception to the Green Belt policies of restraint [22].
 81. The Appellants' children, for whom the proposed pitches are intended, are of an age where they might be expected to live in separate accommodation from their parents [35]. Clearly, they have strong links with the area both historically and taking into account the close family ties [35, 57]. In my opinion, it is not unreasonable for them to seek to remain in the area to which they are associated.
 82. There is a recognised severe shortage of gypsy accommodation within the County and District [28, 33, 34, 57]. In addition, all land outside identified towns and settlements in the District is Green Belt, so that it is unlikely that the children would find suitable accommodation in the area that is not in Green Belt [20,]. It is understandable that the appeal site is preferred as it is already owned by the Appellants and would enable the families to remain living together [32, 35, 38]. Nevertheless, there is no essential need for the children to live on this particular site rather than in the general area, such as schooling or local employment [57].
 83. No search has been undertaken to ascertain whether other more suitable sites exist; neither has the Council's offer to discuss alternative solutions been taken up [38, 57]. Whilst I consider that there are strong reasons why the children should be able to remain in the locality, nothing has been presented to demonstrate that there is no prospect of finding suitable alternative accommodation so as to indicate that it is necessary for them to remain on the appeal site. My conclusion on the third main consideration is, therefore, that the personal circumstances of the Appellants' families do not amount to very special circumstances sufficiently compelling to outweigh the presumption against inappropriate development in the Green Belt or to justify the development in the face of the other objections identified.
 84. In my view, if this appeal were to be allowed without special justification, the Council would find it difficult to resist further pitches for these families in the future [36, 58]. In addition, it would be difficult to resist applications for the expansion of the other 3 gypsy sites located at Tylers Cross Nursery.
 85. Section 54A of the Town and Country Planning Act 1990 requires the appeal to be determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case, the Local Plan includes a specific and detailed policy, H11, relating to gypsy caravan sites within the Green Belt [22]. I consider the proposal to be in conflict with this policy as I have found no special circumstances as required by criterion (i) to justify an exception to the Green Belt policies of restraint. Moreover, in the absence of such special circumstances, there is nothing to outweigh the harmful impact on the openness of the Green Belt and on the character and appearance of the countryside; the consideration in criterion (ii) of the policy.

REPORT

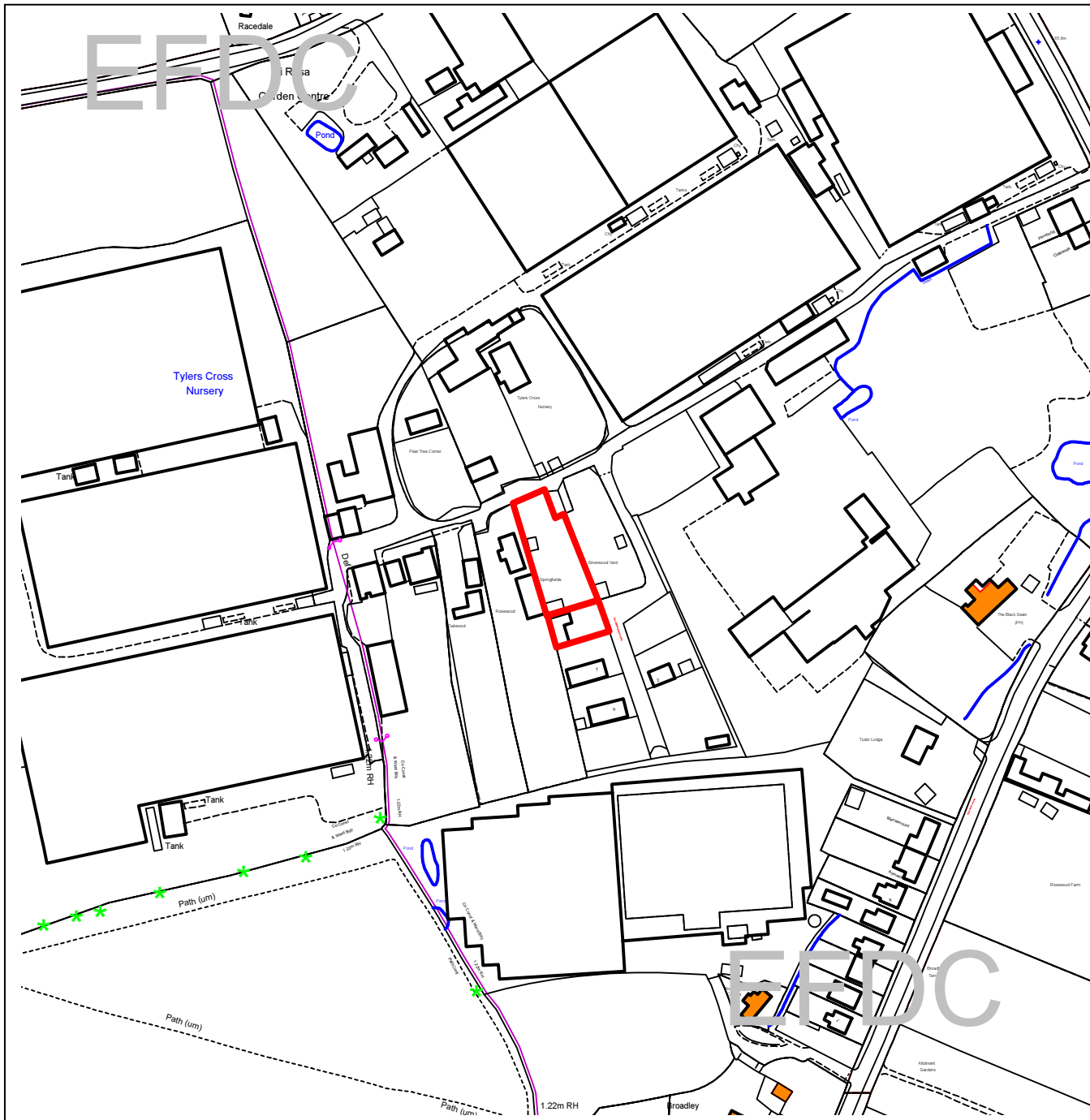
86. With regard to the locational criteria in the accompanying text to policy H11, the parties agree that criteria (a), (e) and (f) are met and I find no reason to reach a different conclusion [22, 30]. Moreover, I believe that criterion (b), that the site should not be in close proximity to residential properties, is met since the nearest house is approximately 80m from the site. It is difficult to assess whether the site would have a minimum impact upon the appearance of the countryside as required by criterion (c) without knowing whether there are alternative sites which would have less of an impact. Finally criterion (d) requires the site to have a convenient and safe access to the main road network and I have already identified the hazards associated with the use of the existing access to the Nursery.
87. Taking other matters raised in evidence into account, I consider that the loss of land that might in future be used for horticulture carries little weight in the face of the current state of that industry and having regard to the acknowledged acute shortage of gypsy accommodation [37, 52]. The Chief Executives' Association report *Travellers in Essex* confirms the need for further gypsy accommodation, but its recommendations do not override the provisions of the Development Plan [34, 58].
88. The 3 appeal decisions specifically referred to, and the 2 sites within the District where additional pitches have been allowed, demonstrate that there are instances where gypsy site provision in the Green Belt has been accepted. Nonetheless, the appeal falls to be determined having regard to the specific circumstances of this case in relation to the provisions of the relevant Development Plan [45].
89. Having regard to my findings on the 3 main considerations and that I have found nothing to indicate that the appeal should be determined otherwise than in accordance with the Development Plan, I conclude that the development should not be allowed. If the Secretary of State disagrees and decides to allow the appeal then the conditions set out in paragraphs 64 and 65 of my report should be imposed for the reasons given.

A handwritten signature in black ink, appearing to read 'Daphne', is written in a cursive style. The signature is enclosed within a large, hand-drawn circle.



Epping Forest District Council

District Development Control Committee



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Agenda Item Number:

Application Number:

EPF/1892/09 & EPF/1893/09

Site Name:

Springfields, Tylers Cross Nursery
Epping Road, Nazeing, EN9 2DH

Scale of Plot:

1/2500

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Report to District Development Control Committee

Date of meeting: 8 June 2010



**Epping Forest
District Council**

Subject: Planning Application EPF/1892/09 – Springfields, Tylers Cross Nursery, Epping Road, Nazeing, Essex EN9 2DH – Variation of condition 3 of EPF/0960/98 (allowed at appeal) to permit alterations to pitch boundaries and siting of 2 additional mobile homes/caravans for residential purposes for gypsy family.

**Officer contact for further information: J Cordell Ext 4294
Committee Secretary: S Hill Ext 4249**

Recommendation:

That the Committee considers the recommendation of Officers to grant planning application EPF/1892/09 to vary the condition.

Report Detail

1. This application is brought before committee as it is affected by the current consultation process for the Gypsy and Traveller DPD.

Planning Issues

Description of Development:

2. Variation of condition to allow provision of two additional mobile homes/caravans for family members within the pitch known as Springfields for family occupation and the addition of integral boundary treatments. This would not provide the rights associated with having new pitches or the day room as sought under EPF/1893/09.
3. Condition 3 attached to EPF/0960/98 previously required:
The number of mobile homes/caravans per pitch hereby permitted shall be limited to two, one of which shall be a touring caravan.

Description of Site:

4. The red lined application site is a roughly rectangular area of land encompassing the pitch known as Springfields, and the 'L' shaped building immediately adjacent to the south. The additional caravans would be provided within these two areas. This proposal would result in the plot known as Springfields extending into the previously non-residential area to the south where there is an existing static building.

5. The Springfields pitch is part of the larger Brede and Breaker site comprising 9 pitches approved under EPF/0960/09. The overall Tylers Cross site comprises a number of nurseries and 15 authorised Gypsy and Traveller pitches.

Relevant History

6. There is an extensive history associated with the wider Tylers Cross site. The most relevant history for the purposes of this application is EPF/0960/98 which permitted an additional 7 pitches onsite resulting in a total of 9 within the Brede/Breaker area of the Tylers Cross site. This application was refused by the Council, Dismissed at appeal by the Planning Inspector and allowed by Go East. Conditions attached to that consent permitted that each pitch may comprise two mobile homes/caravans one of which must be a touring caravan (relevant appeal decisions are attached in the previous committee item).

Policies Applied:

7. Epping Forest District Local Plan and Alterations

GB2A - Development in the Green Belt.
H10A - Gypsy caravan sites
RP5A - Adverse environmental impacts
DBE9 - Loss of amenity
ST1 - Location of development
ST2 - Accessibility of development
ST4 - Road safety.
CP2 - Protecting the quality of the rural and built environment
HC6 - Character, appearance and setting of conservation areas
LL1 - Rural landscape
LL2 - Inappropriate rural development

Summary of Representations:

8. Two neighbouring properties were consulted and site notices were erected both originally on receipt of the application and after revisions were made to the site boundaries on the application. No neighbouring comments have been received.
9. ROYDON PARISH COUNCIL: Object. Green Belt, wait for the outcome of Gypsy and Traveller consultation.

Issues and Considerations:

10. The main issues to be considered is whether the condition should be varied or whether its retention will still meet the requirements of the tests set out in Government Circular 11/95. These tests set out that the condition must be necessary, relevant to planning, relevant to the development, enforceable, precise and reasonable. Issues relating to the Green Belt, nearby Conservation Area, neighbouring amenity and access issues in relation to the highway must also be considered.
11. The reason underpinning the original condition was to prevent the overdevelopment of the pitches as surmised by the Inspector at appeal in paragraph 65 of his statement. This application seeks to vary this condition in respect of the pitch known as Springfields only; the condition would remain in force across the remainder of the site.

Existing need

12. The proposed accommodation would solely benefit the children of Mr Breaker. The Gypsy status of the family which is well established onsite is not disputed. Furthermore, consideration may be given to the need for further family accommodation which was identified by the Planning Inspector in paragraph 36 as part of the 1998 appeal, however at this time this need was merely foreseeable not demonstrable at that time.
13. The East of England Plan set out the requirement for additional pitches in the District and the Councils Consultation on Options Development Plan Document set out where it may be considered reasonable to make provision for these pitches generically. This document recommended that no expansion of the site at Tylers Cross take place as the site has 15 authorised pitches overall and this is the usual upper limit on the desirable number of pitches and also because of the concentration of pitches in this area. This recommendation was reached from a generic viewpoint and was not offered in the context of looking to provide additional accommodation of direct relatives of established families onsite.

Green Belt

14. Additional accommodation in the Green Belt for the Gypsy and Traveller community is not identified as an exception to usual policy in PPG2, therefore the proposals are by definition harmful. Therefore it remains to be considered whether there are very special circumstances to justify the proposed development.
15. Historically it has been considered that the demonstrable need for accommodation in the District and for the established families on site, alongside the desirability of retaining a traditional gypsy unit on one site with direct family ties and an established historic link to the locality has been considered by the Government Office as sufficient to justify development in this location due to its visual isolation from the surrounding area and the circumstance outlined above. These factors remain applicable to the request to vary this condition, therefore on this pitch alone, which is of a greater size than those additional pitches previously permitted, is considered reasonable.

Conservation Area and Street scene

16. The site is situated close to the Conservation Area and public highway. Due to the enclosed nature of the site views into the site from beyond Tylers Cross are not possible, therefore there would be no demonstrable impact visually on the Street scene or Conservation Area.

Neighbouring Amenity

17. The neighbouring pitches are occupied predominantly by direct family ties and others by families with established associations both with the site and the application family. There have been no objections raised and the independent residential occupation of additional caravans is unlikely to have any significant additional impacts to neighbouring amenity.

Highways and access

18. The additional vehicular movements associated with the independent occupation of 2 caravans/mobile homes by family member is considered to have minimal impact on the vehicular movements associated with the access to the Tylers Cross site which currently exist therefore no concerns are raised.

Conclusion:

19. Mindful of the very special circumstance identified historically in relation to the Breaker's occupation of this site and that the condition can be varied in relation to the plot known as Springfields alone, with the condition remaining enforceable for the remainder of the original application site, plus Springfields is capable of accommodating the additional two caravans/mobile homes, Officers recommend that the variation be allowed as follows:

"The number of mobile homes/caravans per pitch hereby permitted shall be limited to two, one of which shall be a touring caravan, with the exception of the extended pitch known as Springfields which may be limited to four mobile homes/caravans, of which at least one shall be a touring caravan."