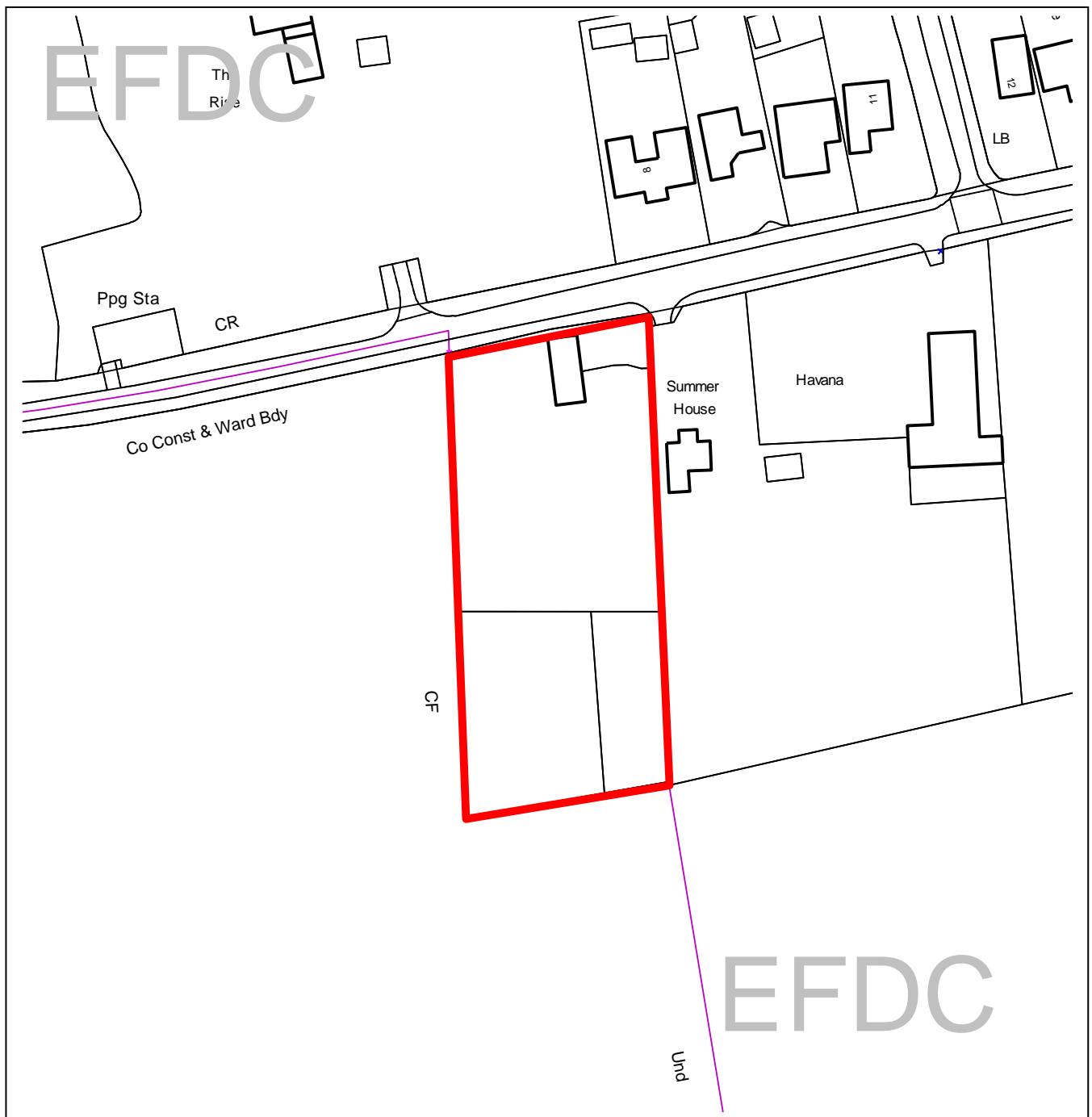




# Epping Forest District Council



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Application Number:	EPF/1712/19
Site Name:	Ashview, Hamlet Hill Roydon Essex CM19 5LA
Scale of Plot:	1:1250

<b>APPLICATION No:</b>	EPF/1712/19
<b>SITE ADDRESS:</b>	Ashview Hamlet Hill Roydon Essex CM19 5LA
<b>PARISH:</b>	Roydon
<b>WARD:</b>	Broadley Common, Epping Upland and Nazeing  Roydon
<b>APPLICANT:</b>	Mr J Smith
<b>DESCRIPTION OF PROPOSAL:</b>	Application for Removal of Conditions 2, 3 & 5 for EPF/1965/12. Condition 2 "use permitted shall be for a limited period expiring four years after date of decision", 3 "when site ceases to be occupied, all materials and equipment shall be removed" & 5 "caravans shall be occupied only by JS & TS and any resident dependants". (Change of use to mixed use consisting of stationing of caravans for occupation by a gypsy traveller family and the use of yard for general storage of materials including scrap metal and old cars with paddock for keeping horses).
<b>RECOMMENDED DECISION:</b>	Grant Permission (With Conditions)

**Click on the link below to view related plans and documents for this case:**

[http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH\\_TYPE=1&DOC\\_CLASS\\_CODE=PL&FOLDER1\\_REF=626139](http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=626139)

## CONDITIONS

- 1     The development hereby permitted will be completed strictly in accordance with the approved drawings numbers:  
 a) Drawing No. Plan 1 - Location Plan  
 b) Drawing No. Plan 2 . Block Plan showing Site Layout and siting of two Residential Caravans.
- 2     The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of the DCLG Document Planning Policy for Travellers Site, or any subsequent amended or replacement document.
- 3     No more than 3 Caravans, as defined in the Caravans Site and Control of Development Act 1960 and the Caravan Site Act 1968 (of which no more than 2 shall be static caravans or mobile homes) shall be stationed on the site at any one time.
- 4     There shall be no storage of materials, including scrap materials, nor of vehicles, lorry bodies, shipping container or caravans (except those allowed by Condition 3

above) anywhere on the site except inside the barn positioned immediately to the west of the access.

***This application is before this Committee since the recommendation is for approval contrary to an objection from a Local Council and at least one non-councillor resident, on planning grounds material to the application (Pursuant to The Constitution, Part 3: Scheme of Delegation to Officers from Full Council).***

**Description of Site:**

The application site is located on the southern side of Hamlet Hill approximately 2km north east of Lower Nazeing. The site itself has a slight slope that falls across the site from east to west, is mainly regular in shape and comprises approximately 1 acre.

The site currently contains two mobile homes, an outbuilding that is used to store a touring caravan, and a paddock to the rear. The site is located within the Metropolitan Green Belt.

The site lies on the edge of a small enclave on the southern side of Hamlet Hill. To the east is Summer House and there are various houses on the opposite side of the road. To the south and west the site is surrounded by fields and the whole area is washed over by Green Belt. The site is well screened from the road by makeshift fencing and a large solid gate.

**Description of Proposal:**

Consent is being sought for the Removal of Conditions 2, 3 & 5 for EPF/1965/12. This original decision allowed for 'Change of use to mixed use consisting of stationing of caravans for occupation by a gypsy traveller family and the use of yard for general storage of materials including scrap metal and old cars with paddock for keeping horses' and was granted consent on appeal in July 2015.

The conditions being sought for removal are:

- Condition 2 "use permitted shall be for a limited period expiring four years after date of decision";
- Condition 3 "when site ceases to be occupied, all materials and equipment shall be removed"; and
- Condition 5 "caravans shall be occupied only by JS & TS and any resident dependants".

**Relevant History:**

**EPF/3232/15** - Application for Approval of Details Reserved by Conditions 8 'boundary treatments', 10 'details of surfacing material' and 11 'foul and surface water drainage' on planning application EPF/1965/12 (Change of use to a mixed use to include the stationing of caravans for occupation by gypsy traveller family). Details Partially Approved on 30/03/2016

**EPF/3240/15** - Application for Approval of Details Reserved by Condition 12 'contaminated land assessment' on planning application EPF/1965/12 (Change of use to a mixed use to include the stationing of caravans for occupation by gypsy traveller family). Details Refused on 11/03/2016

**EPF/1965/12** - Change of use to a mixed use to include the stationing of caravans for occupation by gypsy traveller family. **Refuse Permission on 11/12/2012**  
**APP/J1535/A/13/2190055 – Appeal allowed on 28/07/15.**

**EPF/1021/09** - Certificate of lawfulness for existing use of land to include storage of no more than three caravans. Not Lawful on 04/08/2009

**EPF/1949/08** - Change of use of land to mixed use to include stationing of three caravans for occupation by gypsy family. Refused on 12/12/08. Appeal dismissed on 24/03/10

**EPF/0332/07**- Certificate of lawfulness for an existing use of the siting of a mobile home for residential purposes. Not Lawful on 04/04/2007

**EPF/1010/75** - Details of 1/2 acre glasshouses including loading bay and nursery office with W.C. and kitchen accommodation. Grant Permission with Conditions 15/09/1975.

The site was subject to an Enforcement Notice regarding the stationing of a mobile home for residential purposes served in 2007.

#### National Planning Policy Framework NPPF (2019)

The revised NPPF is a material consideration in determining planning applications. As with its predecessor, the presumption in favour of sustainable development remains at the heart of the NPPF. Paragraph 11 of the NPPF provides that for determining planning applications this means either;

- a) approving development proposals that accord with an up-to-date development plan without delay; or
- b) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
  - i. the application of policies in the NPPF that protect areas or assets of importance provides a clear reason for refusing the development proposed; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole

The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making, but policies within the development plan need to be considered and applied in terms of their degree of consistency with the Framework.

In addition to paragraph 11, the following paragraphs of the NPPF are of relevance to this application:

Paragraph 124

Paragraph 127

Paragraph 130

Paragraph 131

The above policies form part of the Council's 1998 Local Plan. Following the publication of the NPPF, policies from this plan (which was adopted pre-2004) are to be afforded due weight where they are consistent with the Framework. The above policies are broadly consistent with the NPPF and therefore are afforded full weight.

#### Local Plan Policies Applied

CP1 – Achieving sustainable development objectives

CP2 – Protecting the quality of the rural and built environment

SP2 – Spatial Development Strategy 2011 -2033

SP3 – Place Shaping

DBE9 – Loss of amenity

GB2A – Development in the Green Belt

## **Policy Considerations:**

GB5 – Residential moorings and non-permanent dwellings  
GB7A – Conspicuous development  
H4 – Traveller Sites Development.  
H10A – Gypsy caravan sites  
P14 (C (ii)) – Rural Sites in the West of the District  
ST4 – Road safety  
ST6 – Vehicular Parking

### **Local Plan Submission Version 2017**

Paragraph 213 of the National Planning Policy Framework 2019 (NPPF) requires that due weight be given to the relevant policies in existing plans. However, paragraph 48 of the NPPF states that decision-takers may also give weight (unless material considerations indicate otherwise) to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

The Council considers that the Plan is currently at an advanced stage of preparation and has been formally submitted to the Secretary of State for examination and that all the policies are consistent with the NPPF (although this will be tested through the examination). By this advanced stage of preparation, as well as the Council resolution taken on the 14th December 2017, the LPSV is a material consideration in determining planning applications.

Therefore, we need to consider the weight that should be given to each of the relevant policies in the context of the proposed development:

### **Local Plan (1998) and Alterations (2006)**

Section 38(6) Planning and Compulsory Purchase Act 2004 requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan currently comprises the Epping Forest District Council Adopted Local Plan (1998) and Alterations (2006).

The above policies form part of the Council's 1998 Local Plan. Following the publication of the NPPF, policies from this plan (which was adopted pre-2004) are to be afforded due weight where they are consistent with the Framework. The above policies are broadly consistent with the NPPF and therefore are afforded full weight.

**Policy SP2 (D (iv))** States that New Traveller sites in Green Belt areas which are appropriately located in terms of access to healthcare, education and other services. This Site is already in use for the past 4 years as a Traveller Site with no detriment to the amenity of neighbouring properties as the objections submitted.

## **Summary of Representations:**

13 neighbours were consulted and a Site Notice displayed on 28/10/12.

**ROYDON PARISH COUNCIL** – Object - Stating that this site has not been confirmed as a location for Gypsy /Traveller use because the revised Local Plan has not yet been agreed – therefore there are no special circumstances. In accordance with the terms of the previous permission (and this current application) does this site have a waste licence?

**10 Hamlet Hill – OBJECTION - 23/07/2019** I would like to object to this we do not want Gypsy Families living next to us and also scrap metals and old cars storage ,we have spent a lot of money doing up our houses and also we would not be able to sell them because of Gypsy 's they cause trouble and leave loads of rubbish it is very quite there and I think this will cause a lot of trouble in the area .Hope all the neighbours complained. You say 5 caravans for Gypsy families but refused me permission to rent out my annexe .

**Summer House- Hamlet Hill – Objection on 31/07/2019** - We strongly oppose this application for reasons stated below.

- 1) There is a very long history of planning enforcements on this site. Also, there is still confusion as to who is the rightful owner of the land.
- 2) Mr Smith has not fulfilled all the conditions set out by the Planning Inspectorate even though he has had a number of years to do so.
- 3) When the land ceases to be occupied by the temporary permission it should be only right that it is returned to its former state and all materials to be removed by Mr Smith.
- 4) Mr J Smith has lived on the site with his wife since the planning Inspectorate, he moved a brand new mobile home onto the site immediately before any conditions were met. Even though he stated at the planning inspectorate that he had to live on site because he had to sell his house to pay a divorce settlement to his wife. MR T Smith has never spent one night at this site, they stated at the inspectorate that Mr T Smith lives on the road and stays on site when in the area

**Summer House - 31/07/2019** – I strongly oppose any permanent or further temporary permission on this site. I do feel that we already have a number of permitted, tolerated and temporary sites in this area. adding more sites to this area would be detrimental to the community and the green belt. There are many Gypsy and Traveller sites in the area far more than any other Epping forest ward. Many of these sites have far more caravans than the permission allows also a lot of eastern European greenhouse workers are living on these sites. Holmsfield Nursery which has permission for 8 pitches yet has over 40 caravans on site. Sons nursery which is 100-yard past Ash View on the opposite side of the road is occupied by eastern European workers not the Irish traveller family that are supposed to reside at the site. This site also has temporary permission. My point is with Epping Forest inability to deal with these breaches of planning dose not sit well for the future of the area. I do feel adding more pitches to this area will eventually upset the balance. I do feel MR Smith has no fulfilled the conditions set out by the planning inspector and as far as I'm aware the land is contaminated and not suitable for any sort of residential use. I Strongly Object

**9 Hamlet Hill - 06/08/2019** – Will there be a limit to the amount of caravans parked on site? Are there limits to the amount of scrap vehicles to be held on site, are they going to be allowed to stack them? If so how high? Is there going to be mechanical equipment on site to move the scrap vehicles. Also hold concerns from an environmental and fire risks as how will this be managed, would this effect my household insurance. Is this going to be used by the occupants only or would there be a heavy flow of traffic in and out of the site Is there going to be operating hours stipulated should the application be successful as this is a residential area, i.e. weekend restrictions, pre 8am week days and post 4pm week days! Is it intended to turn the site into an ELV scrap metal recycling plant? Will there be any fires onsite?

**Summer House, Hamlet Hill** – Object as the access was previous considered unsuitable at appeal, its inappropriate development within the Green Belt, the site is overlooked by

neighbouring properties, the land is likely to be contaminated, there is no history to residential use of the land, and as there is already a large concentration of allowed, temporary and tolerated traveller sites in this area.

**No.8 Hamlet Hill – Object** - I am writing on behalf of my father Mr Jack Grehan, who lives at No 8 Hamlet Hill and directly opposite Ashview

We strongly object to this application EPF/1712/19 for the removal of conditions 2,3 & 5 for EPF/1965/12 on the following grounds

1. The applicants have already breached the original application and already have an occupied mobile home on the land.
2. We believe should the application be granted and based on what they have tried to do over the past years the whole area will be used and they will not abide by the granted planning notices, once they have moved in the area will become an unlicensed dump with no regulations and will destroy the landscape of this part of Epping Forest
3. Environmentally having a scrap yard within this small compound would not be practical and dangerous, as there is not where enough room to install the correct safe guards to prevent potential contamination to the surrounding farm lands, water sources which run under Hamlet Hill and feed the reservoirs could become contaminated and the risk of damaging surrounding property.
4. The main road [Hamlet Hill] by nature of its name is a very steep hill and on the best of days is very busy, if this planning application is granted additional blockages of the road and disturbances not only to the local home owners, but to all the businesses which are established within the area that rely on this road to get their deliveries in and out will be affected. As it is impractical and dangerous to try and turn lorries / loaded vans into this area without blocking the road especially should there be more than one vehicle at any time. When trying to exit the yard the line of sight is less than 20 meters and is heavily blocked up the hill by very large trees and down the hill by hedging which is on the road line directly from the yards entrance, this will cause lorries which will have to swing into the far side to enable a turning circle to block both lanes and a very large risk of additional accident on this already high accident zone within the area.
5. My Father would have no objection if the land was to be used by one family, but again the application is not defining this and is very open to interpretation which from passed experience can very easily be abused which is very evident from previous application abuse,
6. I am 100% confident if we were to make an application for 5No houses on this land the planning office would reject the application on many grounds [overcrowding, not enough parking, lack of facilities, dangerous exit and egress to the area, environmental impact on the area etc, etc.] so, we do not see any reason why this application should be approved.

#### **Officers Response to the Objections:**

It is officers view that the objections received fail to take into consideration the policy changes in the Submitted Version Local Plan. Policy SP2 and P14 set out the site as an allocated Traveller site in the Local Plan, which the Parish Council failed to note in their objection letter.

The other neighbouring objections are taken into consideration in the determination of this application.

The Council lost an appeal four years ago with the Inspector, who allowed a temporary permission specifically for the site occupants. Following site selection considerations the site was deemed as an appropriate Gypsy/Traveller Site and therefore is allocated as such as **RUR.T2** within the Local Plan Submitted Version 2017 (SVLP). The Policy changes in the Local Plan and evidence base (including the site selection assessment) are material considerations and the Policies in the SVLP must be given weight when assessing and determining this application.

### **Issues and Planning Considerations:**

The allocation of this site as a Gypsy/Traveller Site (RUR.T2) in the SVLP is a material consideration in the determining of this application. The Local Plan Inspector did not raise any concerns to this allocation or the policy change in the SVLP in either the local plan hearing or her Interim Written Response.

The previous application Ref: EPF/1965/12 was refused on 11<sup>th</sup> December 2012. The applicant appealed this decision. In the appeal it was agreed that the development was inappropriate in the Green Belt and the Inspector gave substantial weight to the harm that follows from this. Therefore, the main issues were whether the harm to the Green Belt by way of inappropriateness and any other harm identified was outweighed by any other considerations and if so do these also amount to the very special circumstances required to allow the development?

In the Planning Inspector decision notice it was concluded that there were not very special circumstances sufficient enough to outweigh the harm from a permanent consent, however the material considerations did outweigh the harm from a temporary planning consent and as such the appeal was allowed with a four year conditional permission on 28<sup>th</sup> July 2015.

In the appeal decision the Inspector stated that the provision of Gypsy sites in the District was unmet and that this significant unmet need weighed heavily in favour of allowing the appeal. In July 2011 an appeal decision was issued on an enforcement notice against a Gypsy site at the Carthagena Estate (J1535/C/11/2148946) and in September of the same year the Secretary of State issued a decision on a proposed Gypsy caravan site at The Meadows, Waltham Road (J1535/A/10/2132314). In both appeals it was concluded there was a significant unmet need for Gypsy sites in the District, and that this weighed heavily in favour of allowing the appeals.

With regards to this site, the Inspector stated that it is reasonable to treat this as a well-defined and significantly degraded piece of Green Belt land where there is an opportunity to clear it up and control the future use to the benefit of both the Green Belt and the neighbours. Alongside the general unmet need for Gypsy sites, the Planning Inspector also gave weight to the Personal circumstances of the occupants. Both the Smiths, father and son, are Gypsies and have an aversion to living in a house. The Inspector stated that in terms of their human rights the refusal of the appeal would leave both the Smiths on the road with nowhere to go. As concluded in the 2010 appeal, it must be accepted that the refusal of this application and any subsequent enforcement action would result in a significant interference with their rights under article 8 of European Convention on Human Rights, the right for respect for private and family life and for the home.

The current application is submitted to remove the conditions on the Appeal in order to regularise the use of the site as a permanent Gypsy/Travellers Site for one pitch. This is to enable the permanent use of the site for any occupier that meets the definition of a Traveller as laid out in Annex 1 of the DCLG Document Planning Policy for Travellers Site (PPfTS). The applicants have stated that, should this not be acceptable then they are seeking a permanent consent for the use by the current site occupants. If this is not considered to be acceptable then they would be willing to accept a further temporary consent on the site.

Given the history of the site, the main consideration of the proposal is whether there have been any significant or material changes that would alter the previous decision.

The main change in circumstance is that the site is now an allocated site RUR.T2 (known as Land at Ashview, Hamlet Hill). Policy SP2 of the SVLP sets out the number of homes the

Council plan for over the Plan period in the District to meet local needs and sets out the Council's approach to the provision of Traveller Sites.

This Site RUR.T2 is shown on the Epping Forest District Local Plan Site Location Plan Appendix 6. The site size is 0.43 ha with description highlighting that the site that has a temporary planning permission for one pitch. The site is bounded to the north by Hamlet Hill, to the east by residential development and to the west and south by agricultural land

**As the site is allocated as RUR.T2 (Land at Ashview, Hamlet Hill) the proposal complies with Policy SP2 of the SVLP. Furthermore, given the evidence base and Site Selection Assessment the proposal complies with policy H10A (Gypsy Caravan Sites) of the adopted Local Plan (1998) and Alterations (2006).**

The applicant has submitted information to justify why planning permission should be granted on a permanent basis. This includes that "*the site has now been allocated as a Traveller /Gypsy Site permanent as part of the submission Local Plan (see SP2, SP4 and site allocation (RUR.T2). In allocating this site the Council is clearly satisfied that the site would meet the criteria of emerging policy H4*".

When considering a permanent planning permission for the site, Policy H of the PPfTS states that the lack of a 5-year supply of sites should be a significant material consideration. When taking this into account the balance is tipped in favour of granting a permanent planning permission in view of the SVLP Policies SP2, P14 and site allocation RUR.T2.

The submission Local Plan has been through examination. The Inspector has reported on the Local Plan. There have been no objection to this site RUR.T2 as proposed. This is one of just a few existing private sites proposed for allocation in the Local Plan and is relied on to ensure the identified need for 2018-2022 is met.

Taking all the above into consideration it is concluded that there has been a significant change in circumstance since the previous appeal decision and there are now sufficient very special circumstances to enable this inappropriate development to be allowed in the Green Belt without the need to take into account the personal circumstances of the applicants. Therefore it is the opinion of officers that a permanent consent should be permitted for any occupant who meets the definition of a traveller as laid out in Annex 1 of the PPfTS.

**Impact on neighbours:**

Within the original appeal decision the Planning Inspector concluded that "*I do not think the positioning of another mobile home on the site would have any great impact on the neighbours at Summer House. The main problem for them is the use of the land as a scrap yard, which is clearly visible from their house and garden, and the occasional disputes over the activities taking place on the land. The conditions that could be attached to a permission would be of significant benefit to the neighbours and on balance would be an improvement over the current position*".

Since this application does not propose any increase in the number of pitches or activities on the site there would be no additional impact on neighbours as a result of this proposal.

**Highways:**

ECC Highways have not objected to this application and sufficient evidence was provided about highway safety and the suitability of the access in the previous appeal.

**Epping Forest SAC:**

Since the proposal is to retain the existing use on the site there would be no net increase in the residential use or traffic movements on the site and therefore no mitigation measures would be required with regards to the Epping Forest SAC.

**Conclusion:**

Due to the above, and taking into account the change in Policy, the previous appeal decision, and the other more recent appeal decisions, it is considered that the proposed development would be appropriate since it results in limited harm to the neighbours and the rural character of the site and less than significant harm in terms of highway safety and the free flow of traffic.

The stated changes in Policy SP2 of the SVLP sets out the Council's approach to Traveller Sites within the District and this site is among the four sites that have been allocated for Traveller Accommodation within the rural area in the West of the District. These policy changes are a material consideration and constitute very special circumstances that outweigh the harm to the Green Belt.

Given the allocation of the site in the SVLP and the consideration given to Policy H of the PPfTS, it is considered that a permanent, non-personal consent for the site would be appropriate and would comply with the National Planning Policy Framework 2019, policies SP2, H4 and P14 of the SVLP, and policy H10A of the adopted Local Plan and Alterations. As such, the application is recommended for approval subject to Planning Conditions.

***Should you wish to discuss the contents of this report item please use the following contact details by 2pm on the day of the meeting at the latest:***

***Planning Application Case Officer: Francis Saayeng  
Direct Line Telephone Number: 01992 564161 or if no direct contact can be made  
please email: [contactplanning@eppingforestdc.gov.uk](mailto:contactplanning@eppingforestdc.gov.uk)***