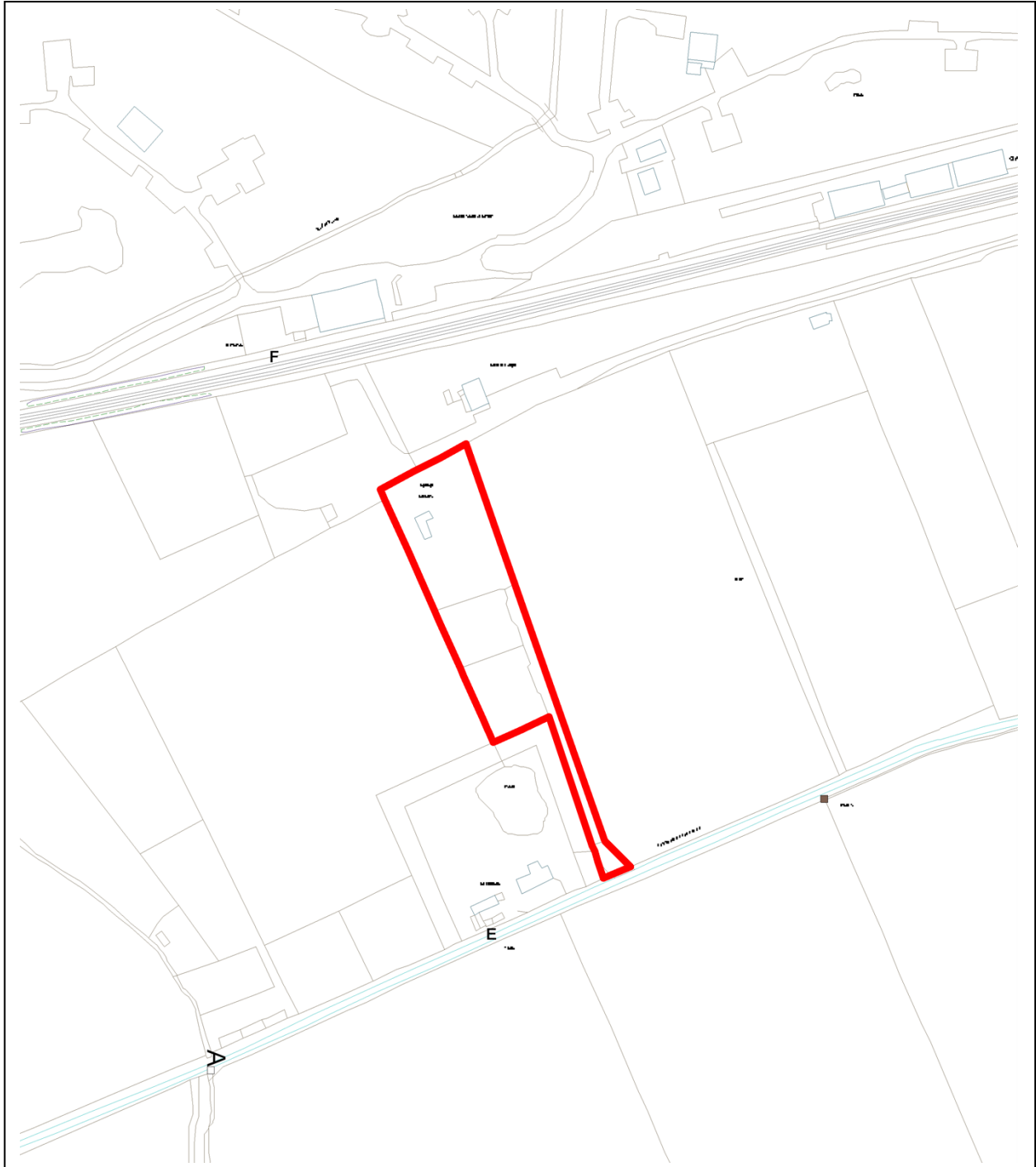


PLANNING COMMITTEE

13 DECEMBER 2011

REPORT OF THE TEMPORARY HEAD OF PLANNING

A.3 PLANNING APPLICATION - 11/00475/FUL - SPRING STABLES, GUTTERIDGE HALL LANE, WEELEY, CO16 9AS



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Application:	11/00475/FUL	Town / Parish: Weeley Parish Council
Applicant:	Mr T Doran	
Address:	Spring Stables Gutteridge Hall Lane Weeley, CO16 9AS	
Development:	Change of use of the land to a residential caravan site to include the stationing of caravans for 3 no. gypsy/traveller pitches and for the erection of utility/day-room buildings ancillary to that use on land.	

1. Executive Summary

- 1.1 The application was deferred at the 28th June, 2011 meeting for a period not exceeding 6 months to allow further reports to be commissioned into the suitability of the site for occupation. A report was brought back to the committee on the 18th October and was again deferred to enable detailed information to be obtained regarding the sizes of pitches and relevant policy and the setting out of recommended conditions in full (with appropriate timescales for compliance) in consultation with the Chairman and Planning portfolio Holder.
- 1.2 This report includes the draft conditions in full in Appendix A. The report has also been updated to include the reasoning behind the proposed conditions and an assessment of pitch sizes. Additional comments on the application have also been incorporated.
- 1.3 Planning permission was granted on appeal for the development in June 2009, subject to conditions. This application is for the same development previously permitted. A new application is necessary because the site owner has failed to comply with conditions on the permission by the due date. Failure to comply means that technically the planning permission has lapsed so the applicant has reapplied. The submission of a new application is an appropriate mechanism for dealing with breaches of planning control and the current application needs to be considered on its planning merits. A copy of the Appeal Decision in respect of application 08/00960/FUL is appended to this report.
- 1.4 The appeal decision is a material consideration that carries significant weight. This needs to be considered in relation to any relevant material changes in planning circumstances since the decision. The main changes are i) the proposed abolition of regional strategies through the Localism Act; ii) a consultation draft on the replacement guidance to Circular 1/2006 and iii) the consultation draft of the Council's Core Strategy and Development Policies Proposed Submission Document.
- 1.5 The main planning policy context remains unchanged from the previous application, namely Local Plan policies HG22, QL9, QL10, QL11, EN1, EN6 and TRN 1a, East of England Plan policy H3 and Circular 01/2006. The appeal inspector considered that when assessed against these policies that the development was acceptable.
- 1.6 Officers have had regard to the changes in the planning context for the consideration of this application but these do not materially alter the conclusions reached by the Inspector. Regard has also been to the additional information and reports produced since the original committee report.

Recommendation: Approve

Conditions:

- Restricted to Gypsy-Traveller occupation;
- No more than two caravans (one mobile and one touring) stationed on each pitch at any one time;
- No more than three pitches;
- Maximum size of pitches
- No sub-division of pitches;
- Submission of schemes for dealing with foul/surface water;
- Submission of site development scheme;
- No other structures;
- No commercial activities from the site;
- No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site;
- Materials of utility buildings to be submitted and approved;
- The site access shall be constructed to a width of 6m and shall be provided with an appropriate dropped kerb crossing at right angles to the highway carriageway;
- Any gates to open inwards and a minimum of 10m from the highway boundary.
- Existing access to adjoining field to be suitably and permanently closed;
- Details of hard and soft landscaping to be submitted.
- Ecological enhancement
- Fire safety

Reason for approval:

The proposed change of use of land to include the stationing of caravans with utility/day-room buildings ancillary to that use and other ancillary engineering operations, including the formation of hardstandings, waste water treatment facility and the retention of existing access and driveway is considered to comply with policies HG22, QL9, QL10, QL11, COM31a, EN1, EN6 and TR1a of the Tendring District Local Plan (2007) and the guidance in ODPM Circular 01/2006 in terms of its location and impact on the amenities and rural character of the area. Regard has been had to the identified unmet need set out in policy H3 of the East of England Plan (2008) and Policy CP19 of the Core Strategy and Development Policies Proposed Submission Document (2010).

2. Planning Policy

National Policy:

PPS3	Housing
ODPM	Circular 1/2006 Planning for Gypsy and Traveller Caravan Sites
DCLG	Planning for traveller sites - consultation document (2011)
DCLG	Designing Gypsy and Traveller Sites – Good Practice guide (2008)

Regional Planning Policy:

H3 Provision for Gypsies and Travellers

Accommodation for Gypsies and Travellers and Travelling Show people in the East of England - A Revision to the Regional Spatial Strategy for the East of England

Local Plan Policy:

The principle Local Plan policy is:

HG22 Gypsy Caravan Sites

Other relevant Local Plan policies are:

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

COM31A Sewerage and Sewage Disposal

EN1 Landscape Character

EN6 Biodiversity

TR1A Development Affecting Highways

Core Strategy and Development Policies Proposed Submission Document (2010)

CP19 Gypsies and Travellers

Other guidance

Essex Gypsy and Traveller Accommodation Assessment (GTAA) 2009

3. Relevant Planning History

3.1 08/00960/FUL - Change of use of land to a residential caravan site to include the stationing of caravans and for the erection of utility/day-room buildings ancillary to that use – refused 31/10/2008, appeal allowed 17/06/2009 and lapsed 24/03/2011

4. Consultations

4.1 Essex County Council Highway Authority

- Raise no objections subject to the closure of two field access to the land adjoining the application site. The authority has clarified its position following queries from local residents. There are no objections to the continued use of the access to the site from Gutteridge Hall Lane.
- In response to a video recording of traffic entering and leaving Gutteridge Hall Lane provided by local residents advises that it provides “*no evidence to indicate that there should be a revised recommendation to the planning application.*” The situation shown is very similar to events outside many other schools in Essex.

4.2 Environment Agency

Raise no objections and provide advisory comments as follows:

- Site only a short distance from a main sewer. Preferably the developer should demonstrate the suitability and appropriateness of a non-mains drainage scheme;
- A private foul sewage treatment plant would be an acceptable method of foul sewage treatment. This should be installed and operated in accordance with manufactures instructions. Consent will be required for any discharge from the plant;
- A separate plant is recommended for each property;
- Any work affecting a watercourse will require consent

4.3 Essex County Council (Gypsy & Traveller Services Manager)

- Recognised shortage of Gypsy/Traveller sites in Tendring as recognised in Essex GTAA;
- Important to retain existing sites to meet the growing need;
- No local authority sites in Tendring and all ECC sites have no vacancies and have waiting list. Unlikely that there will be suitable alternative accommodation for applicant.

4.4 Public Experience (Environmental Services)

Traveller sites are exempt from licensing so the new model conditions do not apply. However, site should meet the basic standards set out in the conditions such as density, space between units and site boundaries, fire fighting controls, electrical installations, drainage and sanitation.

Also recommend that caravans meet British Standard for thermal installation.

4.5 Weeley Parish Council

Objects to the application on the following grounds;

- The plot sizes are much larger than approved at the planning inquiry;
- Maintains objection following pitch size reduction as the third pitch is not as the inquiry inspector allowed and the plans do not reflect what is on site;

Following the submission of the independent traffic assessment makes the following comments:

- Report concentrates on traffic 280m away from the busy junction with the Clacton Road and takes no account of the service road past the school and village hall;
- Observations made on an untypical day;

4.6 Natural England

No specific comments, but generally consideration should be given to securing measures to enhance biodiversity.

4.7 Fire Brigade

No response

4.8 Anglian Water

No response

4.9 Essex Police

No response

5. **Representations**

5.1 21 individual letters, including one from the Governors of St Andrews School and two petitions, one of 50 signatures and the other of 101 signatures, objecting to the application on the following grounds:

- The proposed site layout shows pitches that are larger than in the original application and larger than suggested in Core Strategy policy. This could lead to an increase in use;
- Stable block converted to an amenity block and will not be converted back;
- Registered as 5 -6 plots for Council tax purposes so the applicant is being dishonest in applying for only 3 pitches. This demonstrates that unauthorised infilling is already taking place;
- Original application not complied with so no other applications should be considered;
- Business apparently being run from the site without permission;
- Entrance to Gutteridge Hall Lane dangerous especially when there is school traffic. Allowing additional traffic would compromise the safety of children at the school infringing their rights under UN Convention;
- Query the consultation response from the Highway Authority in terms of the access points to be closed off;
- The applicant has no need for the site as he has property elsewhere. The site is also vacant for long periods;
- Question the status of the application;
- Land outside the village limits and would dominate the local community;
- The site is flooded during the winter and not capable of being occupied;
- No sewer connection and there is no intention of providing an alternative;
- Inappropriate location next to a school;
- Adverse impact on local infrastructure and residential amenity;

- Application gives no indication of the precise number of pitches applied for;
- Opposes any increase in vehicle movements outside of the school, especially as there are 3 entrances in use by the school onto Gutteridge Hall Lane, including the main car park.
- There has been a large increase in private and commercial traffic past the school since the original permission granted. The new application would have a further detrimental effect and create safety issues for the school.
- In addition a video recording of traffic movements into and out of Gutteridge Hall Lane at junction with Clacton Road at peak school times was submitted to demonstrate the level of congestion.

5.2 Comments on objections

- The Council has received a valid planning application for the development as proposed and must consider it on its planning merits as set out in the report;
- The description has been modified to refer to the number of pitches proposed and otherwise follows the wording adopted by the Inspector in her appeal decision;
- Many of the issues raised by local residents were considered at the public inquiry and addressed in the Inspector's appeal decision. These are addressed in the main report;
- The issue of plot sizes is addressed in more detail in the main report;
- The stable block does not form part of this application and is subject to separate enforcement investigations;
- Officers are not aware of any unauthorised business use of the site and no formal complaints have been made;
- The Highway Authority response is set out in the main report;
- A number of residents have queried the number of plots currently registered on the site for Council Tax purposes. Officers are aware that this is based upon information provided by the Council, but the specific details are understood to be confidential. However, from site visits undertaken by planning officers there is no evidence that the number of caravans allowed under the previous planning permission (2 per unit) has been exceeded. The current application is for three pitches each containing up to 2 caravans (including a mobile home). Should planning permission be granted than further investigations may be necessary to determine whether there is a sub-division of any of the plots into separate residential units. An appropriate condition is proposed to address this;
- The Highway Authority raises no objections on highway grounds and considers the increase arising from the site would be acceptable in highway safety terms. This is confirmed by a traffic study carried out on behalf of the Council.

6. Assessment

The main planning considerations are:

- Context and background;
- Policy issues;
- Principle of the proposed development;
- Appeal decision; and,
- Other material considerations.

Context and background

- 6.1 A planning application for this traveller site was refused in October 2008. A subsequent appeal was allowed following a public inquiry. The Inspector concluded that "*The development would cause no unacceptable harm to the character and appearance of the surrounding area, no harm to the living conditions of nearby occupiers and no harm to highway safety or the other matters identified. Accordingly, the development would comply with the criteria set out in policy HG22 of the Tendring District Local Plan and with the advice in Circular 1/2006.*" This decision is a material consideration that carries significant weight in the determination of this application. A copy of the appeal decision in respect of application 08/00960/FUL is appended to this report.
- 6.2 Conditions attached to the decision required, amongst other things the submission of a site development scheme, which was to be implemented within an agreed timetable. The scheme included matters such as landscaping, access improvements, fencing and drainage. A further condition required the removal of structures and clearance of the site within 28 days of failure to comply with the condition. The period for the implementation of the site development scheme ended on 24th March 2011 without the scheme having been fully implemented. In particular, the landscaping, drainage and access works had not been completed as approved. Since that date the access and fencing works have been implemented. A foul water drainage scheme has been installed but not in accordance with the approved details. The current application was received within the 28-day period following the deadline. The application needs to be considered on its planning merits in accordance with the relevant policies and other material considerations as set out in this report.

Location and site description

- 6.3 The application site lies to the south west of Weeley station in an area that is rural in character and outside of the settlement limits of both Weeley and Weeley Heath. The site is located on the north side of Gutteridge Hall Lane and amounts to about 0.5 hectares. There are a number of residential properties in Gutteridge Hall Lane, mainly near to its junction with Clacton Road as well as a primary school, including playing fields.
- 6.4 The site is reached by a new surfaced access track from Gutteridge Hall Lane, which is fenced with a post and rail fence. The site has been laid out in accordance with the previous planning permission with three pitches. The pitches have been set back from Gutteridge Hall Lane along the western boundary of the site with 1.2 metre close-boarded fencing between each pitch. All the pitches have been surfaced with granular material. When the application was first submitted the pitch sizes proposed were between 860m² and 1,350m². Following queries from the public over the pitch sizes these have been reduced to between 750m² and 890m². These are gross measurements and include landscaping and amenity areas. If only the surfaced area is considered the measurements are 440m² to 460m². This comprises the area where the two caravans and utility/day rooms would go and provide an area for parking and other small structures. The building permitted as a stable block, which has since been converted into living accommodation, is outside of the

proposed pitches. There is no planning permission for this change of use. None of the utility/day rooms have been constructed.

- 6.5 Beyond the pitches, between the site and the school playing field is an area of open grassland under the ownership of the applicant. Access is gained to this land via a separate access of Gutteridge Hall Lane. An additional access was formed to this land from the highway earlier this year. The site access runs along the boundary of a residential property known as Reedlands. To the north of the site is another property, Starena Lodge at the end of a short track to the south of the Colchester-Clacton/Walton railway line. The property is in a derelict condition and is unoccupied. On the north side of the railway line is the Charles Caravan Park.

Proposal

- 6.6 A change of use of land (including operational development) for the stationing of caravans and mobile homes for 3 no. gypsy pitches, including the retention of the access and erection of utility/day rooms and other ancillary works. The development also includes the erection of a close-boarded fence around the pitches, provision of hardstanding and soakaway/waste water treatment area. Much of the development has already been completed, including the layout of the site, formation of a new, gated access and tarmac driveway. This application has become necessary because of the failure to comply with conditions imposed by the planning inspector in respect of the site development scheme. It seeks planning permission for the same development as granted on appeal.

Policy Considerations

- 6.7 The main policy context remains the same as that considered by the Inspector in her appeal decision; namely Local Plan policies HG22, QL9, QL10, QL11, EN1, EN6 and TRN 1a; East of England Plan policy H3 and Circular 01/2006. However, there have been some changes to the policy context that are material to the consideration of this application. Officers consider that they provide support for the conclusions reached by the appeal Inspector and do not materially alter her conclusions. However, it will be a matter for members to decide how much weight should be attached to them.
- 6.8 The Localism Act includes provisions for the abolition of Regional Strategies so that the targets set out in policy H3 following the single issue review would no longer apply. Following a number of court cases it has been determined that the Regional Strategies remain part of the development plan until such time as they are abolished and appropriate weight should be given to their policies. However, the intention to abolish is also a material consideration, but officers consider that only a little weight can currently be given to this as no timescale has been set for abolition under the provisions of the Act.
- 6.9 The Core Strategy and Development Policies Proposed Submission Document was published after the Inspector's decision. Policy CP19 sets out the Council's approach to meeting the accommodation needs of gypsies and travellers. This policy is a material consideration which can again only be given very little weight as it is still to be revised following recent consultations on housing provision. Further consultations are due next year on the revised document. The requirement for future pitches set out in the policy is based upon the Essex Gypsy and Traveller Accommodation Assessment (GTAA) rather than the regional figures in policy H3. It identifies a requirement for 8 further pitches, although this needs to be readjusted to 10 to take account of the lapse of planning permission at the application site and a permission recently granted elsewhere. Whilst the Core Strategy uses locally derived figures rather than those in the Regional Strategy, policy H3 of the East of England Plan is still relevant. This identifies a requirement for an additional 15 pitches 2006 -2011, which would increase to 17 with the adjustments referred to above. Beyond that to 2021 a further 13 pitches are required.

- 6.10 Officers consider that the figures in the Essex GTAA give a better indication of actual local need rather than the figures in policy H3, which are an apportionment of a regionally assessed need. However, whichever figures are used there is a significant unmet need for further pitches within the district which is a material consideration for members.
- 6.11 Earlier this year the Government published its consultation draft on the replacement for Circular 1/2006. Whilst it is a draft document, some limited weight can be attached to it. However, the Circular will remain the main policy guidance until it is formally replaced. One of the stated purposes of the draft policy statement is to increase the provision of traveller sites to meet the identified need and thus reduce the likelihood of unauthorised encampments. To achieve this objective local authorities will need to set targets in their development plan for pitches for gypsies and travellers to address their accommodation needs. The draft also lists matters to be considered when determining applications, which include: i) the existing level of local provision and need for sites; and ii) the availability (or lack) of alternative accommodation for the applicants. Policy CP19 of the Submission Document already covers a number of the matters set out in the draft planning policy statement, but may need to be updated to reflect the new policy statement once Circular 1/2006 has been replaced. The position regarding the new guidance remains unchanged since this report was first drafted in June. The draft National Planning Policy Framework is due to be published in the early part of next year and is now likely to include the new guidance on travellers.

Principle of the proposed development

- 6.12 Local authorities have a statutory duty through the 2004 Housing Act to address the needs of gypsies and travellers, where possible, by making land available for their occupation. It is also one of the Government's key objectives for planning for housing, under Planning Policy Statement 3 (Housing), to ensure that everyone has the opportunity of living in a decent home, and this is reiterated in the Council's own corporate priorities of providing affordable and decent housing for everyone.
- 6.13 National advice on the location of gypsy and traveller sites is given in ODPM Circular 01/2006. The Circular states that "*Gypsies and Travellers are believed to experience the worst health and education status of any disadvantaged group in England*". It further states that "*a more settled existence can prove beneficial to some gypsies and travellers in terms of access to health and education services, and employment, and can contribute to greater integration and social inclusion within local communities.*" Whilst sites on the outskirts of settlements may be appropriate from a sustainability point of view, sites in rural or semi-rural settings should also be considered.
- 6.14 The application site is located outside of any defined settlement limits where new development is strictly controlled and where residential caravans would not normally be permitted. However, gypsy and traveller proposals may be acceptable in such locations in accordance with the guidance in the Circular subject to meeting the criteria set out in Local Plan policy HG22.

Appeal Decision

- 6.15 The Council refused the 2008 application as being contrary to criteria (v) and (vi) of Local Plan policy HG22 and criterion (ii) of Local plan policy QL11. In her appeal decision, the Inspector also took account of Local Plan policies QL9, QL10, EN1, EN6 and TRN1a. The Inspector considered the following main matters:

- Impact on the character and appearance of the area;
- Impact on living conditions of nearby occupiers;
- Highway safety;
- Ecology;
- Flooding;
- Location of the development; and,
- Need.

Character and appearance

6.16 The Inspector concluded that the development “*would have minimal impact on the character and appearance of the surrounding area. This minimal impact would be capable of being mitigated by the imposition of suitable conditions.*” She considered that a gypsy and traveller site in this location would be acceptable in principle in accordance with the Circular. Whilst it would be visible from some locations there is no requirement that it is hidden from view, however, she considered that the site would benefit from additional screening. This could be secured through an appropriate condition. Officers consider that this situation has not changed, however, further landscaping is still required which could be secured by condition with strict timescales as to its implementation.

Impact on living conditions of nearby occupiers

6.17 The nearest residential property to the site is Reedlands which is next to the site access. Starena Lodge to the north of the site is currently derelict, but could be occupied following rebuilding/refurbishment. The main impact on residential amenity would be on these two properties, however, there are properties further down Gutteridge Hall Lane, which would be passed by site traffic. The impact from this is of concern to local residents. The Inspector considered these impacts, but concluded that the “*development would not harm the living standards of surrounding occupiers*”. In considering the possible impacts she took into account the estimated level of traffic movement to and from the site of 18-30 per day. She considered that this impact was acceptable.

6.18 Following the deferral in June an independent traffic assessment was commissioned by the Council. This assessed the position on Gutteridge Hall Lane during the morning and afternoon school traffic peaks. This included traffic counts and visual assessments. The report concluded that the level of traffic using the site fell within the range considered by the appeal inspector. An assessment was made of the capacity of the lane to take this traffic along the narrowest length of the lane up to the site access. This concluded that the lane operates substantially below its theoretical capacity and can accommodate the additional traffic during the busiest hour. Further additional movements could also be accommodated.

Highway safety

6.19 Highway safety was also considered by the Inspector who concluded that the development would not harm highway safety. She referred to the advice in Circular 1/2006 that proposals for gypsy and traveller sites should not be rejected if they would only give rise to modest additional daily vehicle movements and/or the impact on minor roads would not be significant. There are no objections from the Highway Authority.

6.20 The traffic assessment for the Council considered that the modest level of traffic generated by the site did not appear to materially affect the movement of vehicles or pedestrians in, around and through the junctions of Gutteridge Hall Lane with the B1441 Clacton Road and with the service vehicle access road adjacent to the St Andrews School. This should not therefore be regarded to give rise to highway safety concerns.

- 6.21 In response to the traffic assessment the parish council has suggested that the service access road to Starena Lodge that runs past the school and village hall should also have been assessed as the applicant may have avoided the traffic count by using this route to his site. It has also been suggested that the site is not as active as it had been over the summer months. Some residents have also questioned the methodology and conclusions of the study. In response the highway consultant has suggested that even with greater activity there would still be sufficient highway capacity in Gutteridge Hall Lane. Had any use of the service road been taking place then this would have been picked on the day of the site visit when the school traffic was observed at the peak times. No particular problems were observed at these times. There is no vehicular access to the application site from Starena Lodge and none is proposed in the application. The proposed access route along Gutteridge Hall Lane is considered acceptable and would not have any material impact on highway safety.
- 6.22 Officers consider that the study supports the views of the Highway Authority and that there has been no material change from the position found acceptable by the Inspector.

Ecology and flooding

- 6.23 In terms of the impact on ecology and flooding the situation has not changed. The Inspector concluded that the proposals would not conflict with Local Plan policies QL10 or EN6 subject to appropriate conditions. However, in its consultation response Natural England has asked that consideration be given to securing measures to enhance the biodiversity of the site should permission be granted. Officers consider this a reasonable request that is in accordance with government guidance and that there are opportunities for such enhancement around the edges of the site. This was a matter also addressed by the appeal inspector in her report and conditions. A condition is recommended to cover this.
- 6.24 During the meeting on 28th June members raised concerns about drainage issues at the site, including foul water and surface water. The applicant agreed to commission consultants to undertake soil tests and make recommendations. The report concluded that soakaways would not be a viable means of discharging treated water. The proposals have, therefore been revised to relocate the biological treatment system at the northern end of the site and discharge treated water to the nearby ditch, owned by the applicant. The possibility of connecting to the nearest mains sewer was investigated, but this was too far away to be used without significant works. The Anglian Water on-line data base has been consulted to confirm this.
- 6.25 The Environment Agency has been consulted on the assessment, but wishes to rely on its previous response. The principle of a private treatment system is acceptable to the Agency, although the details of any treatment and discharge system will be subject to its consent. The appeal inspector also concluded that the matter of drainage could be dealt with by a suitably worded condition. Officers consider that whilst not all the details of foul water treatment have been provided a condition would adequately address the outstanding issues. Any further assessments required to satisfy the Environment Agency to gain its consent would need to be undertaken by the applicant following a grant of planning permission. Surface water drainage has not been identified by the Environment Agency as an issue that needs to be addressed by further assessments. The area of the three pitches, including most of the access track has been surfaced with a permeable granular material and no surface water issues have been identified within the pitches themselves. However, to help ensure that the site does not suffer from any significant surface water accumulations a condition has been recommended to address this.

Location of development

- 6.26 Concerns were raised at the public inquiry regarding access to local services. Policy HG22 and policy CP19 seek to ensure that new sites are reasonably accessible to local services. The Inspector refers to the guidance in Circular 1/2006 in her decision in this regard. The advice is that issues of sustainability should take in wider considerations other than transport mode and distances from services. Whilst in a rural area the site is reasonably close to public transport links and local services in Weeley. The Inspector concluded that the site met the guidance in the Circular and would not conflict with the aims of policy HG22.

Need

- 6.27 The Inspector considered that the appellant (applicant) and his extended family had a need for a site. She also referred to the Council's timescale for the adoption of a Site Allocations Development Plan Document (DPD) and that the Council would not meet the target for 2011 set out in policy H3 of the regional strategy. This position remains the same and whether the regional or locally derived figures are used there remains an unmet need for the provision of new sites. In the Inspector's words "*the appellant's and his extended family's need for a site and the general need for gypsy sites in the District are factors which weigh in favour of the development.*"
- 6.28 The final conclusion of the Inspector was as follows: "*I conclude that the development would cause no unacceptable harm to the character and appearance of the surrounding area, no harm to the living conditions of nearby occupiers and no harm to highway safety or the other matters identified. Accordingly, the development would comply with the criteria set out in policy HG22 of the Tendring District Local Plan and with the advice in Circular 1/06. In addition, the general need for gypsy sites in the District and the appellant's, and his extended family's, need for a site and their educational and health needs provide some weight in favour of the appeal.*"
- 6.29 The main policy considerations for the current application are the same as those considered by the Inspector. The changes to the policy context set out earlier in this report do not materially affect this. Therefore, as the Inspector's decision is recent and relates to the same material planning considerations it should be afforded very significant weight.

Other considerations:

Gypsy and Traveller Status

- 6.30 When assessing an application for a gypsy and traveller site, it is important to assess whether the potential resident(s) meets the planning definition of a Gypsy or Traveller as set out in Paragraph 15 of Circular 01/2006 (and Para 4.181 of the Local Plan).
- 6.31 The definition of a gypsy or traveller is:-

'Persons of nomadic habit of life whatever their race or origin, including such persons who on the grounds only of their own or their family's or dependents educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such.' The applicant and his wider family meet this definition.

Pitch layout

- 6.32 Guidance in respect of pitch layout is as set out in the Department of Communities & Local Government 'Designing Gypsy and Traveller Sites – A Good Practice Guide' published in May 2008.
- 6.33 The DCLG guidance advises that an average family pitch must be capable of accommodating an amenity building, a large trailer and touring caravan (or two trailers), drying space for clothes, a lockable shed, parking spaces for two vehicles and a small garden area. The layout of the proposed pitches meets the standards set out in the guide, including the separation distances as a fire precaution measure.
- 6.34 The guidance does not specify the size that is appropriate for individual pitches. It advises that." *there is no one-size-fits-all measurement of a pitch as, in the case of the settled community, this depends on the size of individual families and their particular needs.*" It goes on to suggest that with larger families (as in this case) larger pitch sizes may be required. This is because families with children approaching teenage years, are likely to need to supplement their accommodation with one or two additional small touring caravans on the pitch as separate sleeping accommodation, until their children are old enough to move on to a separate pitch. Some families may also be in possession of larger mobile homes, which may require a larger pitch size to ensure adequate manoeuvring space.
- 6.35 Whilst traveller sites are not licensable under the Caravans Act (1960) officers consider that sites should conform to the model conditions in terms of site layout for fire safety reasons. This specifies that caravans should be no closer than six metres to each other and at least 3 metres from any boundary. The Act also specifies that a caravan can be up to 20 metres x 6.8 metres, giving an area of 136m². There is a lack of clear guidance on what is an appropriate pitch size and officers suggest that subject to a minimum standard sizes should be considered on a case by case basis. Based upon the Caravan Act standards a minimum pitch size of 325m² is required, but this could not accommodate the largest caravans or larger vehicles or provide any turning space for vehicles. In its study of potential sites for its Gypsy and Travellers DPD Wiltshire County Council proposed a maximum pitch size of 500m² for permanent sites and 250m² for transit sites was used. Other assessments have proposed a range of densities and sizes depending on site constraints, which give both higher and lower figures.
- 6.36 The Council has attempted to address this issue through the Core Strategy Submission Document. Policy CP19 suggests a figure of 250m² suggested by consultants Mott McDonald. This figure is based upon guidance for regional reviews of gypsy and traveller site provision. The CLG guidance 'Preparing Regional Spatial Strategy Reviews on gypsy and traveller s by Regional planning Bodies' (2007) includes a case study that estimated an average pitch size of 200m² as a *very rough calculation* based upon existing pitches in the East of England at the time. However, this pre-dates the current model conditions for caravan sites.
- 6.37 Members have asked what weight should be given to this policy and whether it has been agreed by the Planning Committee. The draft Core Strategy document was agreed by Cabinet for consultation purposes, but has not received any endorsement from the Planning Committee. The draft Core Strategy can currently only be afforded very limited weight as it is due to be revised and further consultations carried out. Planning inspectors are adopting this approach when considering planning appeals generally, so Local Plan policy HG22 still carries the most weight.

- 6.38 The pitch sizes proposed in this case are significantly larger than the 250m² suggested in policy CP19. This is of concern to local objectors because of the risk of the plots being subdivided into additional pitches. The issue of pitch size was not one that the Inspector specifically refers to. This suggests that she considered the size appropriate. The application site area has not changed since the 2008 application (apart from the modification due to re-siting the waste water treatment plant) and the pitch layout has been revised so that it is similar to that approved by the inspector, although the northern most pitch is larger. The issue of pitch sub-division is one that can be addressed by condition; therefore, the main consideration is the impact of the pitches on the character and appearance of the area. The appeal Inspector considered impact on character and appearance of the site as a whole and she did not find that there would be a significant impact. The site configuration as currently proposed would not be significantly different when viewed from outside the site; therefore, officers do not consider that the size of the pitch is a material issue. Clearly if any proposals for expanding the site were to come forward either as a planning application or through the Site allocations DPD, then issues of impact and the efficient use of land would need to be taken into account. However, following consultations with the Chairman and the Planning Portfolio Holder a condition has been included in the draft list appended to this report that seeks to limit the size of pitches to 350m².
- 6.39 Electricity and water are the only mains services currently provided on the site. The site is not connected to any mains sewage system. Therefore, the application proposes that the foul sewage will be treated on site by a private sewage treatment plant. Officers consider that these service connections would meet the criterion and the requirements of policies COM29 and COM31a for sites to be connected to services.
- 6.40 Circular 03/99 sets out how non-mains sewage should be dealt with. The preference is always for discharge to a public sewer, if it can be demonstrated why this is not possible a treatment plant is the next preferred solution. A septic tank is the least preferred option because it is unsustainable, as it would rely on a third party emptying it and could have other impacts as set out in Paragraph 6 of the Circular for example pollution of the water environment and overloading.
- 6.41 Public Experience (Environmental Services) has confirmed that the site would be exempt from any formal licensing, but should nevertheless meet the basic minimum requirements in terms of spacing, density, drainage, amenities and services. Conditions are proposed that address these matters, including one on fire precautions.

Planning conditions

- 6.42 The committee has requested a full list of draft planning conditions be provided with the report. These are set out in Appendix A. These have been prepared in consultation with the Chairman and the Planning Portfolio Holder. In framing these conditions consideration has been given to those imposed by the appeal inspector, with modifications to meet current circumstances and to address issues raised by the committee. Account has also had to be taken of the six tests set out in Circular 11/95. The most important in this case are that they should be necessary, reasonable and enforceable.
- 6.43 The site is currently occupied and has been occupied from time to time by more caravans than previously permitted i.e.2 per pitch. One of the concerns expressed by members is that if planning permission is granted there is no guarantee that the works would be implemented and the Council could again be left in a position of having to consider using enforcement powers. However, in framing conditions account needs to be taken of existing circumstances and it would not be appropriate to start from the premise that they might not be complied with. If a development cannot be made acceptable subject to enforceable conditions then permission should not be granted. This is not the case with this proposal.

Conditions should be worded in such a way that it is clear when there has been a breach and that they are easy to enforce. This is true of conditions on all planning permissions.

- 6.44 Members have expressed the view that wherever possible conditions should be implemented before the planning permission comes into force or before the site is occupied. It would not be lawful to require works to be carried out prior to a planning permission being granted, the appropriate way is to impose pre-commencement conditions. A section 106 Agreement would also not be appropriate as these only take effect upon the grant of planning permission. Pre-commencement conditions are often used and can be worded in such a way that the development shouldn't commence prior to certain works being undertaken. Failure to comply may mean that the planning permission cannot be lawfully implemented. However, such a condition would not be appropriate in this case as the site is currently partly developed and occupied. To require the site to be vacated until certain works are implemented would mean the caravans would need to be parked on other land nearby where there is no planning permission and a potential enforcement situation would arise.
- 6.45 In these circumstances officers consider that the best way to control development is to set realistic timescales for the completion of specified works, with a requirement to vacate the site if not complied with. The Council would also have the option of serving breach of condition notices if the deadlines are not met. The periods would need to be long enough to enable works to be carried out, taking into account weather conditions. If the periods are too restrictive then the applicant could appeal the conditions as being unreasonable. Tree and shrub planting is not normally recommended other than between November and March and only then when ground conditions are suitable. Ground works may also be dependent on ground conditions.

Human Rights Issues

- 6.46 Paragraph 70 of Circular 01/2006 states that the human rights of the applicant should be considered as part of a Local Authorities' decision. The consequences of refusing or granting a permission or taking enforcement action on the individuals concerned should be weighed against the impact of the proposal.
- 6.47 Article 8 of the Human Rights Convention gives the right to 'respect for private and family life, home and correspondence'. In this case the important issue to consider is the right to respect of home. In the event of this application being refused, the applicants would in effect lose their home and the resultant benefits, i.e. access to stable education and health facilities. It is therefore important that the Local Authority gives full consideration to the need of balancing the perceived impact or harm of the proposal, against the rights of the family with regard to their right to a home. However, consideration should also be given to the wider Human rights of the community which are capable of overcoming those of individuals. The Inspector did not address this issue as she allowed the appeal. Should members be minded to refuse permission then consideration must be given to human rights issues in reaching that decision.

Copies of all written observations on the application before you for determination are available for inspection up to and including the date of the meeting during normal office hours at the Council Offices, Weeley. Please advise Planning Reception if you wish to see them to ensure the file is available. The file containing the observations will be available in the Council Chamber half an hour before the commencement of the meeting.

Background Papers.

None.

APPENDICES:

APPENDIX A

Draft Planning Conditions

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.

Reason: Permission is granted solely in recognition of the unmet need for gypsy and traveller sites in Tendring District.

- 2) There shall be no more than 3 pitches on the site none of which shall exceed 350m² in area. On each of the 3 pitches hereby approved no more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed at any time, of which only one caravan shall be a residential mobile home.

Reason: To protect the amenities of the area and maintain the open and rural character of the area.

- 3) Within two months of the date of this permission a site development scheme shall be submitted to the local planning authority which shall include the following details and provisions:

- i) A site layout scheme showing the proposed pitch layout in accordance with condition 2) above and details of fencing and hard surfacing which shall be implemented within 3 months of the date that the local planning authority gives its written approval to the scheme.
- ii) A waste/foul water treatment system with a capacity sufficient for at least 24 persons, which shall be installed in accordance with the approved details within 4 months of the date that the local planning authority gives its written approval to the scheme. The drainage/waste treatment system shall be retained on site and maintained thereafter in accordance with the manufacturers recommendations;
- iii) A surface water drainage system for the site, including details of the connections to the existing ditches adjoining the site, the discharge of water from those ditches and the future maintenance of the system. The surface water drainage system shall be implemented in accordance with the approved details within 4 months of the date that the local planning authority gives written approval to the scheme. Once installed the surface water drainage system shall be maintained in accordance with the approved maintenance details.
- iv) A scheme of landscaping to include details of the tree and shrub species to be planted and the means of ground preparation and treatment and areas to be seeded. The areas to be covered by the scheme shall include all boundaries of the site, apart from the highway boundary, and the areas between the pitches shown on drawing 08_182_005D. Along the western boundary the depth of planting shall be a minimum of 2 metres and along all other boundaries a minimum of 3 metres. The scheme shall include native evergreen species to maintain all year round screening. The planting, seeding and ground works shall take place in the first available planting season following the approval by the local planning authority of the scheme or as otherwise allowed for in the scheme.
- v) A scheme for the ecological enhancement of land outside of the proposed pitches on the western boundary of the site and the undeveloped land to the north and south of the proposed pitches. The scheme shall be implemented within 4 months of the date that the local planning authority gives written approval to the scheme. The land shall be maintained in accordance with details submitted as part of the scheme.

Reason: The site lies in the countryside and it is considered an essential part of the development of the site to retain and reinforce landscaping of the site to safeguard the countryside character and to enhance the ecology of the area. To ensure that the layout out of the site provides an appropriate level infrastructure that would not adversely affect the amenities of the area and open character of the countryside. The site lies in an area that is poor draining due to the underlying low permeable strata. Measures are required to minimise the risk of pollution to ground and surface waters and risk of flooding.

- 4) The three utility/day rooms shown on drawing 08_182_005D shall be erected within 6 months of the date of this permission in accordance with the details shown on drawing 08_182_004_B and with the materials approved under condition 7) below. The utility/day rooms shall only be to provide for cooking, washing and toilet facilities and shall not be used to provide sleeping accommodation.

Reason: To provide an appropriate level of infrastructure provision for the site;

- 5) The erection of the utility day rooms hereby approved shall not take place until samples of the materials to be used in the construction of the external surfaces of the building have been submitted to and approved in writing by the local planning authority. The development shall be carried out using the approved materials.

Reason: In the interests of the visual amenities of the area.

- 6) No unbound materials should be used in the surface finish of the proposed private drive within 10m of the highway boundary which shall remain hard surfaced.

Reason - To ensure that loose materials are not brought out onto the highway in the interests of highway safety.

- 7) At the same time as the site development scheme required by condition 3) is submitted to the local planning authority there shall be submitted a schedule of maintenance for a period of five years of the proposed planting commencing at the completion of the final phase of implementation of the planting scheme. The schedule shall make provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies or, in the opinion of the local planning authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule.

Reason - The site lies in the countryside and it is considered an essential part of the development to retain and reinforce landscaping of the site to safeguard the countryside character.

- 8) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.

Reason: Gutteridge Hall Lane is unsuitable for large vehicles and to protect the visual amenities of the area and the amenities of residents.

- 9) No commercial activities shall take place on the land, including the storage of materials.

Reason: To protect the visual amenities of the area and the open character of the countryside.

10) Within one month of the date of this permission vehicular visibility splay of 2.4m x 45m site maximum to the western side of the existing access shall be provided and maintained throughout the lifetime of the development.

Reason: - To provide adequate inter-visibility between the pedestrians and users of the access and the existing highway for the safety and convenience of users of the highway and of the access.

11) Within one month of the date of this permission 1.5 x 1.5m pedestrian visibility splays shall be provided on both sides of the access as measured from the highway boundary. There shall be no obstruction above a height of 600mm as measured from the finished surface of the access within the area of the visibility sight splays thereafter. These splays must not form part of the finished surface of the access.

Reason - To provide adequate inter-visibility between the pedestrians and users of the access and the existing highway for the safety and convenience of users of the highway and of the access.

12) There shall be no sub division of any of the three pitches into separate units.

Reason: To protect the visual amenities of the area and the open character of the countryside.

13) No out buildings, sheds or other structures shall be erected within the pitches without the express permission of the local planning authority.

Reason: To protect the amenities of the area and maintain the open and rural character of the area.

14) Within two months of the date of this permission there shall be submitted to the local planning authority details of the works, including the reinstatement of the highway verge and hedgerow, for the permanent closure of the two access points from Gutteridge Hall Lane to the land edged blue on drawing 08_182_001_A. The works shall be implemented in accordance with the approved details within 4 months of the date that the local planning authority gives written approval to the scheme or within the first available planting season in respect of the hedgerow.

Reason: In the interest of highway safety

15) Within 2 months of the date of this permission there shall be submitted to the local planning authority a fire safety scheme for the installation of fire fighting equipment at designated fire points and the location of caravans within the site. Caravans shall not be stationed closer than 6 metres from each other or within 3 metres of any pitch boundary. Fire points shall be located within the site such that no caravan or site building is more than 30 metres from a fire point. They shall be easily accessible and clearly and conspicuously marked "FIRE POINT" and shall be provided in accordance with the approved details within one month of the date that the local planning authority gives written approval to the scheme.

Reason: In the interests of safety of residents of the site in accordance with the guidance in 'Designing Gypsy and Traveller Sites' (2008).

16) Any gates provided at the vehicular access shall only open inwards and shall be set back a minimum of 10m from the nearside of the carriageway.

Reason - To enable vehicles using the access to stand clear of the carriageway/footway whilst the gates are being opened and closed in the interests of highway safety.

APPENDIX B

APPEAL DECISION 2009

Appeal Decision

Inquiry held on 17 & 18 March 2009 and 10 & 11 June 2009

Site visit made on 11 June 2009

by Susan Heywood BSc(Hons) MCD MRTPI

The Planning Inspectorate

4/11 Eagle Wing

Temple Quay House

2 The Square

Temple Quay

Bristol BS1 6PN

0117 372 6372

email:enquiries@pins.gsi.gov.uk an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 June 2009

Appeal Ref: APP/P1560/A/08/2090227

Land at Gutteridge Hall Lane, Weeley, Clacton-on-Sea, CO16 9DL

- 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 made by Mr Tom Doran against the decision of Tendring District Council.
- The application Ref 08/00960/FUL, dated 30 June 2008, was refused by notice dated 31 October 2008.
- The development proposed is described as: "the change of use to include the stationing of caravans with utility / day-room buildings ancillary to that use and retaining the existing use of the land for stabling horses".

Summary of Decision:

The appeal is allowed subject to the conditions set out in the formal decision below.

Application for costs

1. At the Inquiry an application for costs was made by Mr Doran against Tendring District Council. This application is the subject of a separate decision.

Preliminary Matters

2. The use has already commenced on site and caravans, hardsurfacing and fencing have been erected and stationed on the land. The description of development as set out on the planning application form does not include the residential use of the caravans. For clarification purposes I have inserted this wording into the description in the formal decision below. I do not consider that this would be prejudicial to any party.
3. A planning permission already exists for the stable block which lies within the application site. I have therefore removed reference to the retention of the existing use of the land for stabling horses as I consider this to be unnecessary.
4. The appeal relates to an application for the use of land including operational development for the utility buildings / day rooms. I do not consider that there is a need to alter the description of development along the lines suggested in the Council's Proof of Evidence. Ancillary operational development required to facilitate the use is identified on the submitted plans and it would be a

matter for the Council to decide whether any departure from these plans would warrant taking enforcement action in the future.

Agreed Matters and Main Issues.

5. A Single Issue Review of the Regional Spatial Strategy 'Planning for Gypsy and Traveller Accommodation in the East of England' is being undertaken. The Secretary of State's Proposed Changes to the Draft Revision to the Regional Spatial Strategy and Statement of Reasons was published in March 2009. It sets out, at draft policy H3 the requirement for local authorities to make provision for 1,237 net additional pitches in the Region by 2011. It identifies a need for 15 pitches to be provided in Tendring District. The parties agree that this figure represents the unmet need within the District.
6. There is no dispute that the appellant and his extended family are gypsies as defined in ODPM Circular 01/2006 'Planning for Gypsy and Traveller Caravan Sites' (Circular 1/06).
7. Accordingly, the main issues in this case are:
 - i. the impact of the development on the character and appearance of the surrounding area;
 - ii. the impact of the development on the living conditions of nearby occupiers with particular reference to the potential for noise and disturbance from the use of the access;
 - iii. the impact of the development on highway safety, flooding and ecology.

Policy Context

8. East of England Plan policy H3 requires local authorities to make provision for sites / pitches to meet the identified needs of gypsies and travellers in their area. Tendring District Local Plan policy HG22 sets out criteria for the consideration of gypsy caravan sites. Amongst other things, it requires that there is an identified need for accommodation and that the site should be in a reasonably accessible location, with convenient access and links to services.

The Council considers that the development would be contrary to criterion (v) of HG22 relating to the character and appearance of the area and to criterion (vi) relating to residential amenity. Policy QL9 relates to the design and landscape impact of development; QL10 relates to the functional aspects of development proposals; QL11 requires development to minimise adverse environmental impacts and be compatible with surrounding land uses; EN1 seeks the protection of landscape character; EN6 seeks to protect and enhance biodiversity; TR1a aims to ensure that the highway impact of development proposals is acceptable.

Reasons:

Character and appearance

9. The appeal site is located outside the settlement boundary for Weeley. To the south the site is bounded by Gutteridge Hall Lane and open countryside beyond. To the west of the site lies open countryside and the residential property at Reedlands. The site is separated from residential properties to the south east and the buildings at St Andrew's Primary School by open fields. To the north lies Starena Lodge and a railway line and caravan park beyond. The surrounding area therefore has a semi-rural appearance, rather than having the appearance of open, undeveloped countryside.
10. The site is only visible from a few vantage points along Gutteridge Hall Lane and beyond due to the substantial hedgerow alongside that lane. From these points the existing fencing along the eastern boundary of the site is visible as are the tops of caravans on the site and the upper portion of the existing stables. The upper parts of mobile homes and utility buildings would also

be visible from these vantage points. At the access to the site, close boarded fencing and gates have been installed and block paving materials have been laid.

11. The site is well screened along its northern boundary and is further screened from land to the north of the railway line by additional substantial trees along the railway boundary. There is a hedge and trees along part of the western boundary but this is sparse in places and the site is visible from the nearby fields. The site is also visible from the adjoining playing fields to the east. The site would undoubtedly benefit from some additional screening along the western and eastern boundaries. This can be secured by condition. Otherwise, the development on the site is well screened in its surroundings.
12. Circular 1/06 advises that gypsy sites are acceptable in principle in the countryside and refers (at paragraph 54) to the suitability in principle of sites on the outskirts of built-up areas and rural or semi-rural settings. Furthermore, there is no requirement for gypsy sites to be hidden from view. Whilst the site would be visible from the locations identified above, the substantial existing screening and potential for further screening to soften and filter views of the development, leads me to the view that the development would have a very limited impact on the character and appearance of the surrounding area.
13. I do consider that the block paving at the entrance, the close boarded fencing and the gates have an urbanising appearance which are out of character with the semi-rural nature of the surroundings. However, these are unauthorised and, with the exception of some of the close boarded fencing along the eastern boundary, do not reflect the details on the submitted planning application. Conditions can be imposed which require the submission and implementation of details of fencing, landscaping and hardsurfacing at the entrance to the site, in order to ensure that these are appropriate to the semi-rural character of the area.
14. I acknowledge that part of the hedgerow has been removed to create the access into the site and that this will have reduced the sylvan nature of the lane at this point. However, I consider that it would be possible to replant some hedging alongside the access road at the site entrance and that this can be secured by the imposition of a landscaping condition. On balance, I do not consider that the impact of the loss of a relatively short section of hedgerow has caused unacceptable harm to the character and appearance of the surrounding area. The development does not therefore conflict with criterion (f) of policy EN1 and criterion (iv) of policy QL9.
15. I note the points made by interested persons that other residential development is not acceptable in the countryside. However, each development must be treated on the merits of the case in question and in accordance with the policies, both national and local, which apply to it. There are circumstances where residential development is acceptable in the countryside and in relation to development proposals by the gypsy and traveller community, Circular 1/06 is a material consideration of significant weight.
16. For the above reasons, I conclude that, the development would have a minimal impact on the character and appearance of the surrounding area. This minimal impact would be capable of being mitigated by the imposition of suitable conditions. The development therefore complies with part (v) of policy HG22. Having regard to the advice in Circular 1/06 I therefore consider that the development would not cause unacceptable harm to the character or appearance of the surrounding area.

Living conditions of nearby occupiers

17. The site is separated from the adjoining property at Reedlands by a substantial copse of mature trees and open land to the side of Reedlands. The pitches are located some distance behind the rear boundary of Reedlands and are well screened by the copse of trees.

18. The Council confirmed that their concerns related to the movement of traffic on the driveway and the impact of this on the living conditions of the occupiers of Reedlands. Interested parties have also raised concerns in relation to the living conditions of other residents along the lane.
19. The appellant estimates that the development would result in a maximum of 18 – 30 vehicle movements per day. This figure was not challenged by the Council and it seems to me to be a reasonable estimate of vehicle numbers for three pitches. The access drive to the appeal site is located some distance to the east of the property at Reedlands. I acknowledge that this amount of traffic may be noticeable to the occupiers of that property. But, I consider that the distance between the driveway and that property is sufficient to ensure that the noise from vehicle movements would not be so significant as to harm the living conditions of the adjoining occupiers. Neither do I consider that these vehicle movements would harm the living conditions of those properties close to the junction of Gutteridge Hall Lane and Clacton Road, given the relatively modest increase in traffic and the distance of those properties from the road.
20. I note the concerns raised by interested parties in relation to potential for commercial activities on the site. The appellant stated that there would be no commercial activities carried out from the site and this is a matter that can be controlled by the imposition of a suitable condition.
21. I conclude on this issue that the development would not harm the living conditions of the surrounding occupiers and it would not therefore conflict with part (vi) of policy HG22.

Highway Safety

22. Interested persons have raised concerns that the development would harm highway safety on Gutteridge Hall Lane, particularly having regard to the proximity of the site to St Andrew's Primary School. I accept that the lane is narrow and that there are no formal passing places along much of its length. However, from my observations, other than in the vicinity of the school, the amount of traffic currently using the lane is small. There are some points along the lane at field entrances where two vehicles would be able to pass each other. But, in any case, given the moderate traffic movements to and from the site, and the low traffic movements currently along the lane, I do not consider that the width of the lane and lack of formal passing places would be likely to cause a significant problem in terms of highway safety.
23. I acknowledge that the development would increase the number of vehicles passing the school. However, there are already a significant number of vehicles manoeuvring in the vicinity of the school at drop off and pick up times. I consider that the increase in vehicle movements passing the school at those times, as a result of the appeal development, would be negligible. I do not consider that this increase in vehicular movements would cause harm to highway safety in the vicinity of the school.
24. In addition to the above, I note that the Highway Authority has raised no objections to the development on highway safety grounds. Paragraph 66 of Circular 1/06 advises that proposals for gypsy sites should not be rejected if they would only give rise to modest additional daily vehicle movements and/or the impact on minor roads would not be significant.
25. For the above reasons, I conclude that the development would not harm highway safety in the vicinity of the site. It would not therefore conflict with local plan policy TR1a and would comply with the advice in Circular 1/06.

Flooding

26. The appeal site lies within Flood Zone 1 and the Environment Agency were consulted on the application but made no comments. Interested parties suggested that there may be drainage issues in the nearby area, but the photographic evidence submitted related to a property and to the lane, further to the east and some distance from the site. I do not consider that there is any

evidence to suggest that the appeal site is at risk of flooding or that the development would increase flood risk elsewhere. A condition can be imposed to ensure that drainage details are submitted to the Council to ensure that these are satisfactory. On this basis, I consider that the development would not conflict with local plan policy QL10.

Ecology

27. I note the concerns initially expressed by Natural England and those raised by interested parties in relation to the potential for newts in the pond at Reedlands. The appellant has carried out an ecological survey which concluded that the site is of low value for newts and that, provided hedgerows are retained, any impacts to amphibians would be negligible. Natural England has indicated that they are satisfied that the development is not likely to have a significant adverse impact on protected species. They indicate that conditions could be imposed to improve the value of the boundary hedgerows as a habitat. I accept that the removal of part of the hedge along the frontage of the site may have reduced the amount of foraging habitat for newts along the southern boundary. However, I consider that the imposition of conditions as referred to above will adequately compensate for this loss. I therefore consider that the development would not conflict with local plan policy EN6.

Other matters:

Location of the development

28. Interested parties raised concerns in relation to the proximity of the appeal site to local services. Circular 1/06 advises that issues of sustainability should take in wider considerations other than transport mode and distances from services. These include the wider benefits of easier access to GP and other health services; children attending school on a regular basis and the provision of a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment.

29. In terms of its location in relation to services and facilities the appeal site is similar in nature to sites in many rural areas. It should therefore be seen in the light of the advice in Circular 1/06 regarding the acceptability in principle of gypsy sites in rural areas. I consider that the development would not conflict with the aims of Circular 1/06 or policy HG22 in this respect.

Need

30. I consider that it is clear that the appellant and his extended family have a need for a site, having regard to the evidence given relating to their cultural background.

31. The timescale for adoption of the Site Allocations Development Plan Document was given as mid 2012. No gypsy sites have yet been identified by the Council and it therefore appears likely that the Council will not meet the identified need of 15 pitches by 2011.

32. The appellant's, and his extended family's, need for a site and the general need for gypsy sites in the District are factors which weigh in favour of the development.

Health and Education

33. The appellant's mother and sister have health difficulties which require medical supervision. I consider that it is of benefit that the family has a settled site in order to more easily gain access to the required medical attention. There are also children on the site who attend the local school and younger ones who will require schooling in future years. I note the concerns regarding the capacity at the school, but the appellant's children have secured places at the school. Even if it were not possible for the other children on the site to secure places there in the future, a settled base is desirable in allowing the children to regularly attend school, even if

they have to travel to a school further away from the site. These matters provide some weight in favour of the appeal.

Starena Lodge

34. During the Inquiry, it came to light that Starena Lodge to the north of the appeal site and in the ownership of the appellant has a Certificate of Lawful Use or Development (CLEUD) for four caravans for "human habitation". It was therefore advanced by the Council and interested parties that this site would meet the appellant's needs and that there is therefore no need for the appellant to reside on the appeal site.
35. I accept the appellant's arguments that the Starena Lodge site would not meet entirely his requirements at the present time. But I also note the Council's views that the appellant could alter his requirements. I agree with their view that it is possible that that site could accommodate the appellant's needs in the future subject to the relevant planning permission being granted.
36. Nevertheless, the availability of Starena Lodge as a potential alternative site which the appellant could move to does not make the appeal site unsuitable for the use. I have concluded that the development causes no unacceptable harm. The existence of the CLEUD on Starena Lodge does not alter that view.

Human Rights Implications

37. Representations were made to the effect that the appellant's, and his extended family's, rights under Art 8 of the European Convention on Human Rights (ECHR) would be infringed if the appeal were to be dismissed. As I have decided to allow the appeal, I do not need to deal further with this matter.
38. I note that an interested party has also raised concerns in relation to the human rights implications for local residents if the appeal is allowed. Although it was not made clear which Article of the ECHR would be infringed in these circumstances, the rights and freedoms of local residents must be balanced against the effect of the development on the public interest. In the light of my conclusions on the matters addressed above I am satisfied that if the appeal is allowed, its effect on local residents would be proportionate in the circumstances and would not result in an infringement of their rights.

Conclusions

39. I conclude that the development would cause no unacceptable harm to the character and appearance of the surrounding area, no harm to the living conditions of nearby occupiers and no harm to highway safety or the other matters identified. Accordingly, the development would comply with the criteria set out in policy HG22 of the Tendring District Local Plan and with the advice in Circular 1/06. In addition, the general need for gypsy sites in the District and the appellant's, and his extended family's, need for a site and their educational and health needs provide some weight in favour of the appeal.
40. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Conditions

41. A condition is required restricting the use to gypsies and travellers only, due to the special considerations applying to development by the gypsy and traveller community. But, I do not consider that a personal permission is needed as my decision has not turned on the personal circumstances of the appellant or his extended family. In order to protect the appearance of the

area conditions are required restricting the number of pitches and number and type of caravans; requiring the submission of details of materials for the amenity blocks, boundary treatments and gates, hard surfacing at the entrance to the site, landscaping and its maintenance; and restricting commercial vehicles and activities. Drainage details should be submitted to ensure that the site is properly drained. Details of visibility splays at the entrance of the site are required in the interests of highway safety. A condition is also required to secure the ecological mitigation measures along the lines suggested by Natural England.

42. The existing derelict mobile home is inconspicuous when viewed from outside of the site. I do not consider that its removal is necessary in order to allow the development to go ahead and a condition is not therefore required to secure its removal. I note that it is not known within whose ownership the hedge along the western boundary lies. Nevertheless, I consider that it would be possible to provide supplementary planting alongside that boundary on land within the appellant's ownership. I consider that this would be more effective in providing a lasting screen along that boundary than would the provision of a post and rail fence to protect the existing sparse hedge.
43. I note that the existing stable block at the northern end of the site is currently being used as a utility / day room but the appellant has indicated that this is only required until the utility buildings included in the application can be provided. A planning permission was granted for the erection of the stable block in 1997. The plans submitted with the current application show this building as being retained for the stabling of horses. It would be possible for the Council to enforce any departure from the approved plans and as such, I do not consider that it is necessary to impose a condition restricting the use of that building to the stabling of horses.
44. I note the Council's objections to a condition worded in such a way as to allow a period of 3 months for the submission of additional details. Nevertheless, a condition worded in a way which sets out clear timescales for compliance provides the Council with a route to effective enforcement action in the face of non-compliance with the specified timescale, or the submission of unacceptable details. In circumstances where the use has commenced, albeit unauthorised and not in accordance with the submitted plans, I consider that this is a reasonable course of action.

Formal Decision

45. I allow the appeal, and grant planning permission for the change of use of the land to a residential caravan site to include the stationing of caravans and for the erection of utility / day-room buildings ancillary to that use on land at Gutteridge Hall Lane, Weeley, Clacton-on-Sea, CO16 9DL in accordance with the terms of the application, Ref 08/00960/FUL, dated 30 June 2008, and the plans submitted with it, subject to the following conditions:
 - 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.
 - 2) There shall be no more than 3 pitches on the site and on each of the 3 pitches hereby approved no more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed at any time, of which only one caravan shall be a residential mobile home.
 - 3) The erection of the amenity blocks hereby approved shall not take place until samples of the materials to be used in the construction of the external surfaces of the building have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

- 4) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - i) within 3 months of the date of this decision a scheme for: the means of foul and surface water drainage of the site; visibility splays at the site access; the materials of the surface finish of the proposed private drive within 10m of the highway boundary; details of entrance gates and hard boundary treatments; tree, hedge and shrub planting (including the protection of existing landscape features) and where appropriate earth mounding including details of species, plant sizes and proposed numbers and densities; and habitat enhancement measures (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation.
 - ii) within 11 months of the date of this decision the site development scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.
 - iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.
- 5) At the same time as the site development scheme required by condition 4 above is submitted to the local planning authority there shall be submitted a schedule of maintenance for a period of five years of the proposed planting commencing at the completion of the final phase of implementation as required by that condition; the schedule to make provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies or, in the opinion of the local planning authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule.
- 6) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 7) No commercial activities shall take place on the land, including the storage of materials.

Susan Heywood
INSPECTOR

DOCUMENTS

- 1 Council's letter of notification of Inquiry and circulation list.
- 2 Statement of Common Ground, submitted by appellant.
- 3 Letter from Essex County Council, Schools, Childrens and Families Directorate, submitted by appellant.
- 4 Letter from Dr C Mahmoud, Thorpe-le-Soken Surgery, submitted by appellant.
- 5 3 letters in support from nearby residents, submitted by appellant.
- 6 Letter from North East Essex NHS Primary Care Trust, submitted by appellant.
- 7 Witness Statement of Mr Tom Doran.
- 8 Copies of Land Registry Titles, submitted by Council.
- 9 Copies of appeal and costs decision (APP/J3720/A/08/2082774), submitted by appellant.

- 10 DLGG document: Designing Gypsy and Traveller Sites, submitted by appellant.
- 11 Planning permission ref: TEN/97/0011 for stables and hay store, submitted by Council.
- 12 Natural England letters, submitted by Council.
- 13 Certificate of Lawful Use or Development for Starena Lodge, submitted by Council.
- 14 Council's letter of notification of resumed Inquiry and circulation list.
- 15 Appendix 21 to Mr Green's Proof of Evidence, submitted by appellant.
- 16 Leaflet entitled "To all Weeley Residents", submitted by appellant.
- 17 Local Plan policies TR1a, EN1 and EN6, submitted by Ms Bannister.
- 18 List of conditions, jointly submitted.
- 19 Closing submissions on behalf of Council.
- 20 Closing submissions on behalf of appellant.
- 21 Costs application on behalf of appellant.