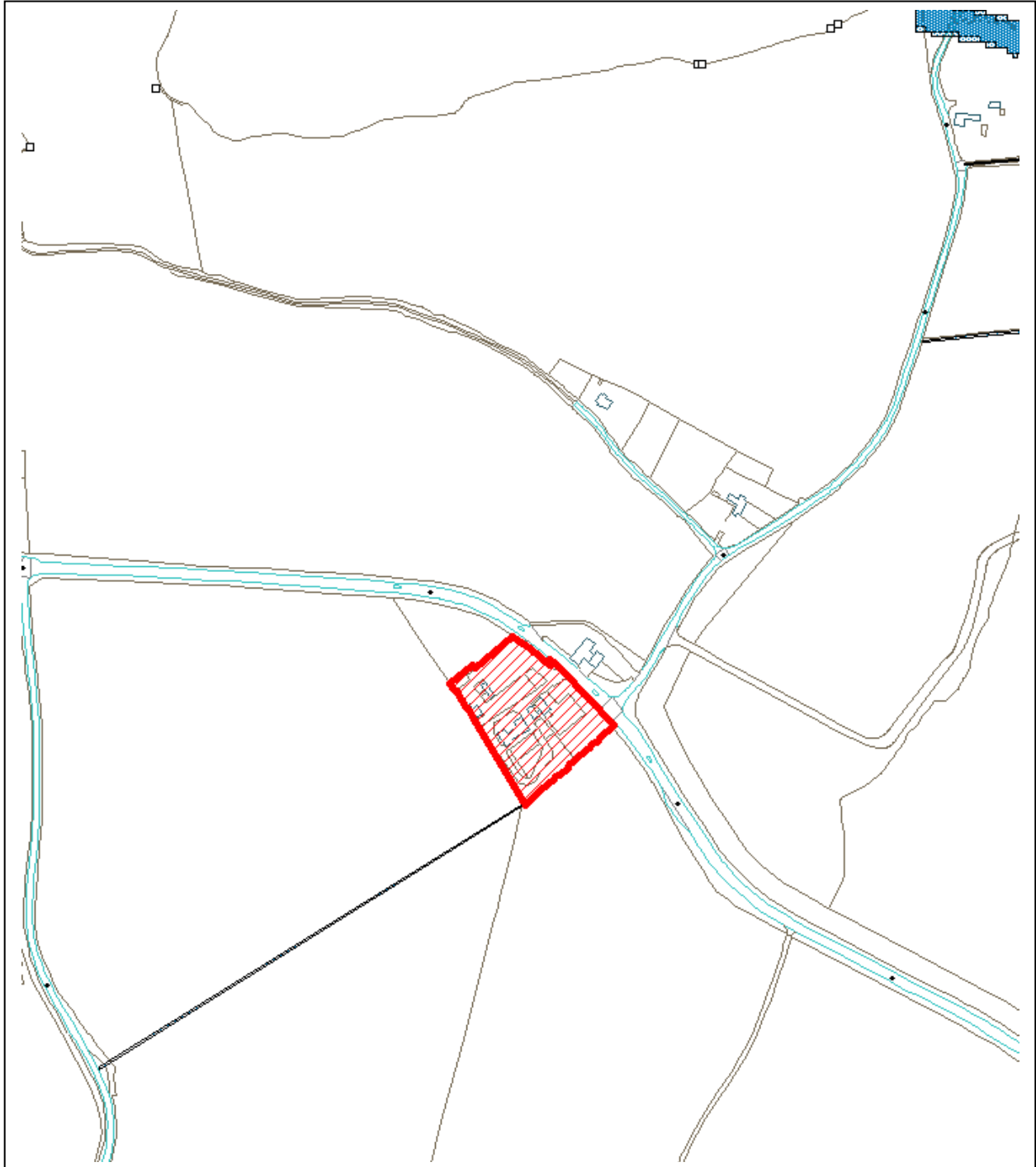


**PLANNING COMMITTEE**

**27 MARCH 2013**

**REPORT OF THE HEAD OF PLANNING**

**A.7 PLANNING APPLICATION - 12/00989/FUL & 12/00990/FUL - WOODFIELD BUNGALOW, COLCHESTER ROAD, GREAT BENTLEY, CO7 8RY**



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**Application:** A.12/00989/FUL  
B.12/00990/FUL

**Town / Parish:** Great Bentley

**Applicant:** Mr Roy Smith

**Address:** Woodfield Bungalow, Colchester Road, Great Bentley, CO7 8RY

**Development:**

- A. 12/00989/FUL – Change of Use as a travellers' caravan site including retention of two existing family caravan compounds and three additional caravan pitches and use as extension of residential curtilage to The Bungalow
- B. 12/00990/FUL – Change of Use from Builder's Storage to Commercial Vehicle Sales

**1. Executive Summary**

- 1.1 The proposals are submitted as two separate applications for full planning permission for the change of use of the land and as a combined proposal would provide for the following:
  - 5 no. pitch travellers' caravan site (including the retention of two unauthorised pitches and three new pitches) - Application A
  - An extension of the residential curtilage of The Bungalow to garden area - Application A
  - Use of the established builder's storage yard for the sale of commercial vehicles – Application B
- 1.2 The proposals are considered to accord with the National Planning Policy Framework; the National Planning Policy for Traveller Sites; and local plan policy and would meet (and marginally exceed) the identified need within the District for additional traveller pitches to 2021. In addition, planning approvals would secure the requirements of an existing enforcement notice relating to the commercial vehicle sales area and introduce planning controls over the area occupied by the builder's storage yard that has the benefit of a Certificate of Lawful Use that was granted on appeal in 2004.
- 1.3 Both applications are recommended for approval subject to controlling conditions.

**Recommendation Application A:**

The Head of Planning to be authorised under delegated powers to grant FULL planning permission for the following works:

- A. 12/00989/FUL – Change of Use as a travellers' caravan site including retention of two existing family caravan compounds and three additional caravan pitches and use as extension of residential curtilage to The Bungalow

Subject to the following conditions :

- Commencement of development within three years
- In accordance with the drawings
- Occupation by persons of traveller and gypsy origin
- No more than five pitches (including the two unauthorised existing pitches)

- Each pitch to have no more than two caravans only one of which will be static
- Means of enclosure between each site
- Details of refuse and other storage buildings
- Details of amenity blocks
- No commercial activities including storage of materials or vehicles
- No more than one commercial vehicle per pitch by the occupiers (not to exceed 3.5 tonnes)
- Hard and soft landscaping details
- Implementation of landscaping details
- Foul and surface water drainage details
- Highway conditions
- Lighting scheme
- Removal of permitted development rights for enclosures and outbuildings
- Contamination

**Recommendation Application B :**

The Head of Planning to be authorised under delegated powers to grant FULL planning permission for the following works:

- B. 12/00990/FUL – Change of Use from Builder’s Storage Yard to Commercial Vehicle Sales

Subject to the following conditions :

- Commencement of development within three years
- In accordance with the drawings including loading and unloading bay
- Limitation of vehicle weight for those vehicles for sale to 7.5 tonnes
- Hours of operation 8:30-18.00 Monday to Saturday and 10:00 to 18:00 Sunday and Bank Holidays
- Hard and soft landscaping details – including surfacing
- Foul; trade waste and surface water drainage details
- Lighting scheme
- Highway conditions
- Contamination
- No vehicle storage other than within the specified area

**2. Planning Policy**

National Planning Policy

National Planning Policy Framework and the Planning Policy for Traveller Sites (2012)

Tendring District Local Plan 2007:

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG16 Garden Extensions into the Countryside

HG22 Gypsy Caravan Sites

TR1A Development Affecting Highways  
TR7 Vehicle Parking at New Development  
COM31A Sewerage and Sewage Disposal  
EN1 Landscape Character  
EN6 Biodiversity

Tendring District Local Plan - Proposed Submission Draft (2012)

SD1 Presumption in Favour of Sustainable Development  
PEO15 Traveller Sites  
PRO15 The Rural Economy  
COU 2 Garden Extensions into the Countryside

Other guidance:

Gypsy and Traveller Accommodation Assessment (GTAA) (November 2009).

The written Ministerial Statement of Greg Clark 23 March 2011 'Planning for Growth' – that sets out the Government's commitment to promoting sustainable growth.

**3. Relevant Planning History**

12/00990/FUL - Change of use from builder's yard storage to commercial vehicle sales. - Current

12/00989/FUL - Change of use to use as a travellers' caravan site including retention of two existing family caravan compounds and three additional caravan pitches an use as extension of residential curtilage to "The Bungalow". - Current

12/00060/LUEX - Existing lawful use application for erection of single storey dwelling and use as a single dwelling house. - 03.05.2012

08/00391/FUL - Alteration to existing vehicular accesses. – Refused - 08.05.2008

08/00871/FUL - Widening of vehicular access onto the Colchester Road A133. – Approved - 13.08.2008

02/00284/FUL - Sale of motor vehicles – Refused - 18.04.2002

02/00026/OUT - Single dwelling – Refused - 28.03.2002

01/01036/LUEX - Certificate of Lawfulness for use as building yard for the storage of building materials, plant and machinery - 05.02.2002

**4. Consultations**

**Application A.**

4.1 Great Bentley Parish Council - There has never been any enforcement on the site which has blatantly disregarded planning laws in the past. How is this application going to be any

different from an enforcement point of view? How is TDC going to control the site? The PC has serious concerns about unauthorised expansion in the future.

- 4.2 Environmental Health - A site licence can only be issued by Tendring District Council if the applicant has planning permission to use the land as a caravan site. If planning permission has been granted, the Council must issue a site licence and may attach conditions to the licence. A site licence may only be refused even though planning permission has been granted, where the applicant has held a licence which has been revoked during the past 3 years at the time of the application.
- 4.3 Model Standards were issued for holiday sites and residential sites in 1989. The residential sites Model Standards were updated in 2008. These standards only apply to those sites which contain caravans that are used as permanent residential units. They do not apply to sites used exclusively for holidays or touring caravan sites (for which separate model standards have been issued). The standards also do not apply to sites occupied by gypsies or travellers.
- 4.4 Therefore this Service has no delegated powers to licence or control the proposed change of use.
- 4.5 Regeneration - The Regeneration team have no specific comments to make on this application.
- 4.6 Principal Tree & Landscape Officer - When approaching the application site from the north west the land is well screened by an existing hedgerow situated adjacent to the highway however the entrance to the site would benefit from planting on the bunds adjacent to Colchester Road. This would help to both enhance and screen the appearance of the development
- 4.7 The most important trees on the application site are the two Oaks situated on the north western boundary. The trees are mature healthy specimens that make a positive contribution to the appearance of the area. The development proposal will not affect the existing Oaks.
- 4.8 In terms of the landscaping of the site: in addition to the planting described above it would be desirable to plant a hedgerow comprising indigenous species on the north Western boundary between the two mature Oaks in order to screen the site when viewed from the open countryside.
- 4.9 In general the other boundaries are relatively well screened by existing vegetation that appears to be situated on adjacent land. It is not considered necessary to strengthen this vegetation with additional planting.
- 4.10 ECC Highways Dept - The Highway Authority raises no objection subject to conditions.
- 4.11 Environment Agency - No objection subject to drainage details being agreed

#### **Application B.**

- 4.12 Great Bentley Parish Council - Objects due to concerns about the movement of large vehicles in the area.
- 4.13 Comments that the PC would like to be assured that the change of use will not be permitted to be relocated elsewhere on the site.
- 4.14 Environmental Health - Pollution and Environmental control have no comments to make regarding this application

- 4.15 Regeneration - The Regeneration team have no specific comments to make on this application.
- 4.16 ECC Highways Dept - The Highway Authority raises no objection subject to conditions.

## 5. Representations

None

## 6. Assessment

### Location and Site Descriptions.

- 6.1 The application site lies to the west of Colchester Road, Great Bentley within a small cluster of built development, including the former Little Chef building, a Shell petrol filling station, Woodfield Bungalow and The Bungalow and a traveller's caravan compound. It is surrounded by open farmland.
- 6.2 Together the application sites contain the following:
- Woodfield Bungalow – a residential property occupied by the applicant, his wife and their son
  - An area of land mainly to the south of Woodfield Bungalow occupied by an established builder's storage yard that has the benefit of a Certificate of Lawful Use determined on appeal in 2004
  - An area to the north of Woodfield Bungalow that is occupied by an unauthorised use for the sale of commercial motor vehicles. A planning application for the vehicle sales on this part of the site was dismissed on appeal in 2011 and the use is currently subject to a valid enforcement notice
  - An area to the north of Woodfield Bungalow and to the west of the vehicle sales yard that is occupied by The Bungalow. This is a single storey building that is occupied by the applicant's grand daughter and which has the benefit of a Certificate of Lawful Use for use as a dwelling that was approved in 2012
  - An area to the west of The Bungalow occupied by two family travellers' caravan compounds – one of which is occupied by the applicant's son and the other by an unrelated individual and his family
- 6.3 In total the application sites have a combined area of 0.75 hectares adjoining the southwest side of the A133 which is the main route into Clacton. The site has a frontage of approximately 62 metres and a depth of approximately 82 metres. The site is accessed directly onto the A133 via a shared entrance to the south and a second access to the north.
- 6.4 The entire site frontage is defined by a 1.8 metre high palisade fence that currently encloses the unauthorised vehicle sales yard. The eastern and southern boundaries are enclosed by a 1.8 metre high close boarded fence. The triangular area of land to the north of the vehicle sales yard (enclosed by trees) is not included within either planning application. The vehicle sales yard is currently occupied by a small pre fabricated office building (approximately 5 metres x 4 metres). The yard is surfaced with a mix of gravel; tarmac; hoggin or concrete finishes.
- 6.5 To the west of the unauthorised vehicle sales yard is the curtilage of The Bungalow which is enclosed by a 1.8 metre high close boarded fence. The two unauthorised traveller family caravans lie to the west of The Bungalow and are screened on the boundary with well established trees and hedgerow. The compounds contain static caravans; touring caravans;

and a shared amenity building that separates the two compound areas. To the south of The Bungalow is a communal parking and storage area.

- 6.6 The southern most part of the combined application site area is occupied by Woodfield Bungalow. This is a substantial detached single storey dwelling. To the rear of this is an established builder's storage yard. Its boundaries comprise of close boarded fencing to the north and established trees to the south and to the boundary with the former Little Chef. Woodfield Bungalow has a detached garage with driveways to either side of the dwelling.
- 6.7 This authorised builder's storage yard area is currently being used for the storage of commercial vehicles and a covered vehicle wash.

### **Proposal**

- 6.8 The proposals are submitted as two separate applications for full planning permission for the change of use of the land and as a combined proposal would provide for the following:
- 5 no. pitch travellers' caravan site (including the retention of two unauthorised pitches and three new pitches)
  - An extension of the residential curtilage of The Bungalow to garden area
  - Use of the established builder's storage yard for the sale of commercial vehicles

### **Policy Considerations Application A (Need)**

- 6.9 The main policy context is Local Plan policies HG22, QL9, QL10, QL11, EN1, EN6 and TR1a of the adopted Tendring District Local Plan (2007) and the guidance in Planning Policy for Traveller Sites (2012), which replaced ODPM circular 1/2006. The National Planning Policy Framework (NPPF) is also material. It requires that applications are considered and determined in accordance with the presumption in favour of sustainable development.
- 6.10 The draft Tendring District Local Plan was published for consultation on 9th November 2012, the period ended on 7th January 2013. As the document is a draft its policies carry limited weight at present but they do represent a material consideration (as identified by the NPPF). In this instance, the emerging policy PEO15, relating to traveller sites, received few representations received and so regard can be paid to this in the determination of the current application.
- 6.11 It should be noted that the East of England Plan was revoked in January of this year (in accordance with the abolition of Regional Strategies included in the 2012 Localism Act). The traveller pitch targets that were set out in the East of England Plan are no longer relevant. However, a Gypsy and Traveller Accommodation Assessment (GTAA) (November 2009) has been carried out for the Essex area and this is considered to give a better indication of the local need for new pitches. Regard has been had to this document in the assessment of the current application.
- 6.12 An important element of the new national guidance is that local planning authorities should make their own assessment of need for the purposes of planning and to ensure that there is an appropriate level of supply. To establish accommodation needs of travellers there needs to be a robust evidence base. The GTAA is considered to be such a local assessment and accords with the principles in the new guidance.
- 6.13 The new national guidance requires the consideration of the following matters:
- The existing level of local provision and need for sites;
  - The availability (or lack) of alternative accommodation for the applicants;
  - Other personal circumstances of the applicants;

- The locally specific criteria should be used to assess applications on unallocated sites where there is no identified need;
  - Determine applications for sites from any travellers and not just those with local connections.
- 6.14 The saved Local plan does not include any allocated sites but HG22 sets criteria against which new proposals should be considered.
- Sites for gypsies and travellers only (now defined in new guidance);
  - Identified need;
  - Sites should be reasonably accessible to local services;
  - Site should have safe and convenient access and parking and turning facilities within the site;
  - Should not harm nationally designated areas and have minimal visual impact;
  - Should not harm residential amenity;
  - Should be connected to main services and provide a good standard of amenity for occupiers.
- 6.15 The advice in the national guidance is that local planning authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure.
- 6.16 The Council has a legal duty to address the accommodation needs of travellers and the national planning policy requires Council's to identify sites for traveller pitches. The GTAA is the principle source of evidence and suggests that Tendring will need to have 10 authorised pitches by 2012. The study revealed that there were already six authorised pitches in Tendring which would leave a shortfall of four pitches to be authorised before 31 March 2012. The study identified three unauthorised traveller pitches on land at Woodfield Bungalow (one pitch has since been authorised by way of a Certificate of Lawful Use for use of The Bungalow as a dwelling ). The Bungalow is not restricted to occupation by a traveller family and so there remains a need for four authorised traveller pitches. The current application proposes that two pitches are to be authorised by their retention and proposes three new pitches. If planning permission is granted this would mean that the level of need for pitches would be exceeded by one pitch. There would be no further requirement to provide additional pitches until at least 2021.
- 6.17 The study considered a number of different options including Woodfield Bungalow; Gutteridge Hall Lane in Weeley; and the creation of new pitches within proposed housing developments, amongst others. Having considered these options, the Council's emerging local plan proposes the allocation of the site at Woodfield Bungalow to accommodate four pitches (Policy PEO15).

### **Highway Impact**

- 6.18 Having regard to the existence of the current authorised dwellings and the authorised builder's storage yard, it is not considered that the creation of three additional pitches or the proposed vehicle sales would result in a material increase in traffic to the site that would have an adverse impact on highway safety. The functional requirements of the proposed application uses can be fully met within the boundaries of the site. The Highway Authority has no objection to the proposals.

### **Impact on the Visual Character and Appearance of the Area.**

- 6.19 The application sites are situated within a cluster of existing buildings and it not considered that the proposals would result in an adverse impact on the character or appearance of the area. Planning conditions are proposed that would introduce additional landscaping to the



boundaries of the site that would further help to screen the proposals from long distance views. A condition is also proposed to restrict the erection of walls and fences and outbuildings on the extended garden area in order to retain control over any creep of built development into the open site areas that currently exist. Unlike the visual intrusion of the existing van sales at the front of the site (which was a reason for the dismissal of the previous appeal to retain the vehicle sales at the front of the site), the site to the rear of Woodfield Bungalow would be well hidden from public views. Furthermore, it should be noted that the authorised use of the site for a builder's storage yard has no planning controls over it at present. Materials and equipment could be stacked or stored to an unlimited height. The grant of a planning permission for the relocation of vehicle sales to this site would result in the ability to impose controlling conditions.

### **Sustainability**

6.20 The previous planning application refusal and appeal dismissal at the front of the site for vehicle sales gave much consideration to the question of sustainability. It was held by the appeal Inspector that the site was not in a sustainable location and that the creation of jobs did not outweigh the harm created by the use in an unsustainable location and as a result of visual intrusion in a prominent location. In this instance, the vehicle sales area is intended to replace an existing authorised use. At the time of the appeal decision, that granted a Certificate of Lawful Use for the builder's yard, the Inspector noted that the site included a utility vehicle; trailers; diggers; dumper trucks; dilapidated caravans; reinforcing materials; drainage goods and tanks; scaffolding; tools; fuel barrels; road signs and piles of other loose building materials and waste materials. The proposed use would not introduce an additional commercial use, unlike the unauthorised vehicle sales at the front of the site, and thus any harm would be limited in that it would maintain the status quo but would have the benefits of introducing planning controls by way of conditions and relocating the sales to the rear of the site which is screened from view by the existing built development and by boundary planting.

### **Other Issues**

6.21 Article 8 of the Human Rights Act provides the right to respect for private and family life and for the home; it also places a positive obligation on the Contracting States to facilitate the gypsy way of life. The approval of the application A would obviously accord with the Human Rights Act. Similarly, Section 149 of the Equality Act 2011 provides that a public authority must have due regard to the need to eliminate discrimination and to advance equality of opportunity. The approval of application A would also meet the aims of the Equality Act by providing the Council's identified need for traveller pitches until at least 2021.

### **Conclusion**

6.22 The proposals comply with National and local plan policies and any harm is outweighed by the benefits of the proposals as identified in the report but including the introduction of planning controls; the creation of traveller pitches; and the creation of rural employment.

### **Background Papers**

None.