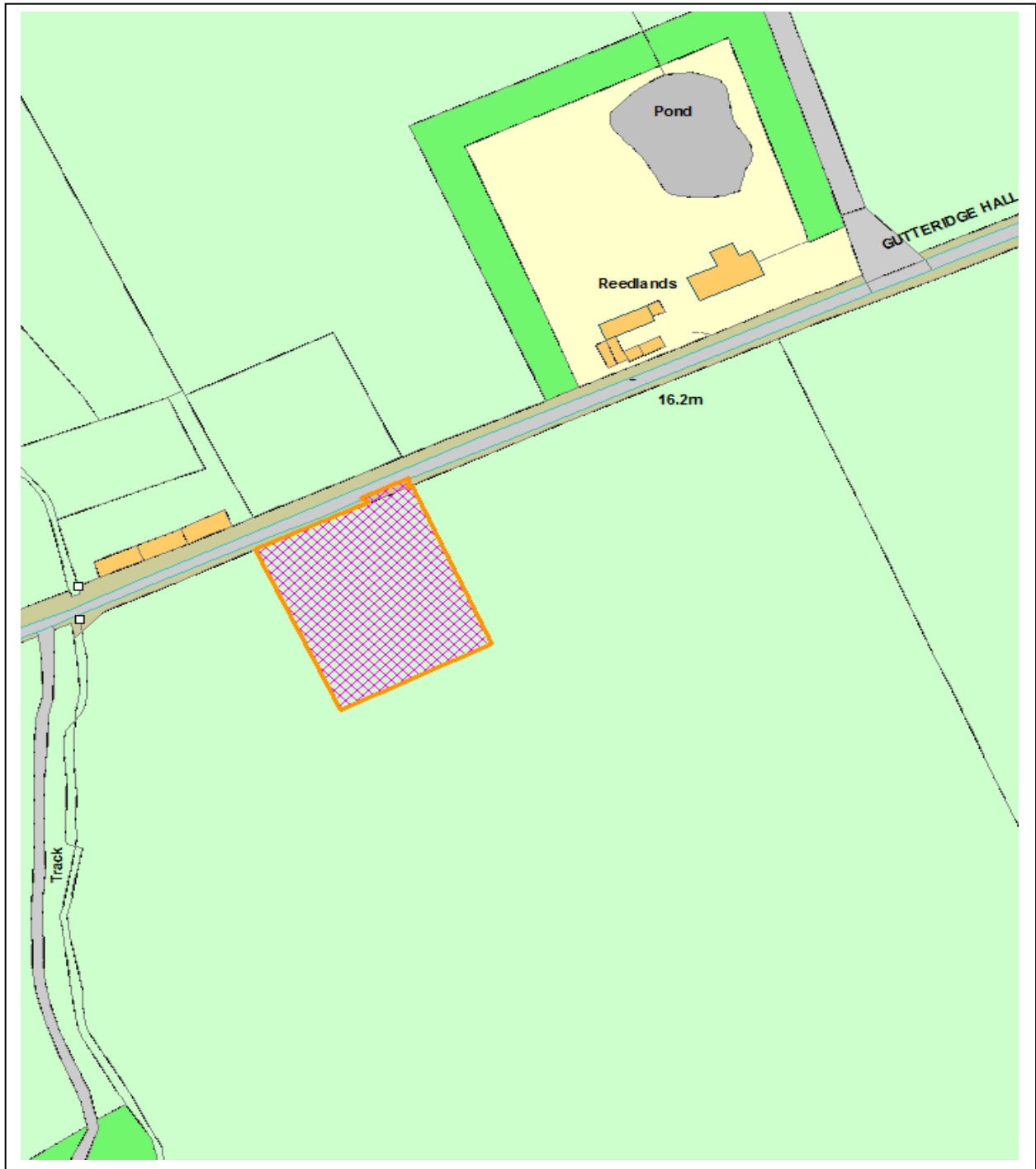


PLANNING COMMITTEE

8 AUGUST 2017

REPORT OF THE HEAD OF PLANNING

A.3 PLANNING APPLICATION - 17/00507/FUL - LAND TO THE SOUTH OF GUTTERIDGE HALL LANE, WEELEY, CO16 9AS



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Application:	17/00507/FUL	Town / Parish: Weeley Parish Council
Applicant:	Mr T Buckley	
Address:	Land to The South of Gutteridge Hall Lane Weeley	
Development:	Change of use to one gypsy pitch comprising one mobile home, one touring caravan, one day room and associated works.	

1. Executive Summary

- 1.1 The application has been called to Committee by Cllr Mike Brown, on the basis that the development would increase traffic/impact on highway safety; that Gutteridge Hall Lane has been designated as a quiet lane, and this area has already had its quota of traveller sites.
- 1.2 The application site relates to a modest development of a single gypsy 'Plot' with a mobile home, touring caravan and day room, within a small paddock area to the south side of Gutteridge Hall Lane to the west of Weeley.
- 1.3 The site is situated within the open countryside, albeit relatively close to Weeley village and the primary school.
- 1.4 The gypsy site provision within the adopted local plan is based on an old survey and is out-of-date. A new needs survey has fed in to the formulation of new policy, and suggested allocations are being advanced through the emerging local plan.
- 1.5 The applicant has indicated an intention to make representations to that policy through the local plan process, and believes their personal circumstances warrant a temporary consent.
- 1.6 It is a reasonably sustainable location and the development meets the 3 arms of sustainable development as noted within the N.P.P.F.
- 1.7 The D.C.L.G Planning policy for traveller sites indicates that Local Planning Authorities (L.P.A's) should allocate sufficient sites to meet the identified need (5 year supply) and establish criteria for dealing with other ad-hoc (usually individual) 'windfall' sites.
- 1.8 The Adopted Tending Local Plan of 2007 is somewhat out-of-date in terms of the gypsy and traveller policy, as the 'need' assessment is of some age and the policy itself (HG22) is solely a criteria-based policy and does not specifically allocate sites.
- 1.9 The emerging policy is still at an early stage, and as the applicant wishes to make representations, then less weight can be attributed to that policy.
- 1.10 It is concluded that the current application should be given a temporary permission – based on the applicant's need and personal circumstances, in order to give sufficient time to evaluate the emerging policy and allow consideration through the local plan process (the N.P.P.F promotes a plan-led system).
- 1.11 Whilst the current proposal represents an intrusion in to the countryside, this must be balanced against the applicant's need for a site, the applicant's children's human rights to education, and the emerging status of the development plan, along with the very modest nature of the proposal, being a single family 'plot'.

- 1.12 A temporary consent would allow the applicant's/children's needs to be met, and allow their objection to the policy to be heard through the due process, and the application is recommended for approval on that basis.

Recommendation: Approve

Conditions:

1. **Temp permission for 2 years, and after that period all structures etc to be removed and site re-instated to paddock**
2. **Personal to the applicant**
3. **Occupation only by persons meeting Gypsy Definition**
4. **Dev in accordance with plans**
5. **No more than 1 pitch, and no more than 2 caravans one of which can be a mobile Home complying with Caravan Sites Act**
6. **No occupation until following details approved:-
Landscaping scheme and timetable for implementation
Hardstanding/parking provided
Foul and surface water drainage installed in accordance with details
Refuse storage details agreed**
7. **No businesses to be carried out from the site**
8. **No vehicles to be stored at the site in excess of 3.5tonnes unladen weight**
9. **No external lighting**

2. Planning Policy

NPPF National Planning Policy Framework

National Planning Practice Guidance

D.C.L.G - Planning policy for traveller sites (PPTS)

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG22 Gypsy Caravan Sites

EN1 Landscape Character

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

SP1 Presumption in Favour of Sustainable Development

SP2 Spatial Strategy for North Essex

SP6	Place Shaping Principles
SPL1	Managing Growth
SPL3	Sustainable Design
LP9	Traveller Sites
PPL3	The Rural Landscape
CP1	Sustainable Transport and Accessibility

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. As this plan is yet to be examined, its policies cannot carry the full weight of adopted policy. However, because the plan has reached publication stage its policies can carry some weight in the determination of planning applications. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

3. Relevant Planning History

17/00507/FUL	Change of use to one gypsy pitch comprising one mobile home, one touring caravan, one day room and associated works.	Current
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4. Consultations

Building Control and Access Officer	No adverse comments.
Environmental Health Housing Services	Comments awaited
Policy Section	Comments awaited
ECC Highways Dept	The Highway Authority has assessed the details of this application and does not wish to submit formal comments

5. Representations

Weeley Parish Council state:-

Weeley Parish Council objects to this application for the following reasons: the site is

outside the development boundary, there are already sufficient gypsy/traveller pitches in Weeley,
this site is prime agricultural land, this application would lead to additional traffic and Gutteridge
Hall Lane has been designated as a 'Quiet Lane' by ECC.

6 individual letters of objection have been received which make some of the following points:-

- Prime agricultural land
- Outside the development boundary
- 5 traveller/gypsy pitches already have planning permission in Gutteridge Hall Lane – a massive gypsy site already exists
- 2 further gypsy/traveller pitches are allocated to Weeley in the Local Development plan - Tendring has already provided sufficient pitches within its boundaries
- TDC should be forward thinking and take the lead to modernise the countryside for travellers as well as the local community – there needs to be clear strategy rather than dealing with ad-hoc applications
- The east and south-east has highest concentrations of traveller sites in U.K – why must we have more?
- This is prime agricultural land and my family farmed it until 1957 and it has never had buildings on it for hundreds of years
- Affects the green belt
- The entrance needs to be clear of Essex County Council land
- Gutteridge Hall Lane has been designated as a "quiet lane" for walkers and public to access the countryside and footpaths
- The lane is a no-through road, with blind bends and few passing places, and was recently blocked when a caravan fell in to the ditch, and long vehicles have difficulty manoeuvring
- Extra traffic is a concern – a risk for walkers and horses, and would cause delays in leaving Gutteridge Hall Lane
- The lane has to cope with so much speeding traffic, and there has been a serious accident damaging gate-posts, since ECC put the 30mph signs at the playground
- One pitch could lead to further pitches
- Sets precedent for exploitation of residential development in the area
- Puts extra pressure on rural services and road
- There are no mains services in the area
- Work has already started on the site. The ditch has already been filled in, and I am unsure if any modifications have been made to allow for proper drainage – the accesses created should be done in a manner to maintain the ditch
- There is no serviceable ditch, which leads to flooding of the lane
- Cesspit should not be allowed due to drainage problems – land is impermeable
- Buildings have already been erected on the site in the form of two wooden stable blocks
- There are also paddock fences erected, and topsoil has been excavated from the site
- The fence and plants are illegal, and must be stopped – everyone else has to abide by the law – TDC should exert its authority and take out an injunction to stop this unauthorised development - make these people feel pain for their unlawful acts
- The application should not be advanced until the fence and plants are removed
- A right of access exists through the site to adjacent land
- Neighbours were not notified

6. **Assessment**

The main planning considerations are:

- Principle of development

- Policy issues
- Character and form of the development
- Highway Safety
- Residential Amenity
- Overall planning balance

The Site

- 6.1 The site comprises a small parcel of land at the end of Gutteridge Hall Lane (on its southern side) and the land is grazing land. It forms part of a larger field currently used as a grazing paddock for horses, and where unauthorised stables are located.
- 6.2 The site is modest in size with a frontage of 40m and depth of 45m. It has a substantial hedge to the road/ditch, with an agricultural access at the eastern end of the site. The applicant has already erected a fence under permitted development rights along with some hedge planting and other shrubs.
- 6.3 There are residential properties to the west, and a single dwelling on the north side of Gutteridge Hall Lane, with another well-established traveller site further to the east on Gutteridge Hall Lane – allowed on Appeal - which is closer to Weeley village and railway station.
- 6.4 The surrounding land is in agricultural use, mostly grazing, and the site to the east (on the southern side of the lane) was a former unauthorised encampment – known as the duck-farm site - that was the subject of an injunction to prevent caravans from entering the site.

The Proposal

- 6.5 The proposal is to utilise the site for the creation of a gypsy-site for an individual family, and would comprise:-
- A stoned hardstanding directly from the field access (which would be piped and a tarmac verge crossing created)
 - A parking area for a touring caravan at the western side
 - The siting of a mobile home with adjacent parking on the southern side
 - The erection of a day-room immediately adjacent to the access and behind the high boundary hedge on the northern side
 - Installation of a package treatment plant for foul drainage (a Tricel Novo EN6-50)
 - 1.2m high post and wire fencing to the eastern and southern boundaries supplemented by extensive natural species hedging, with a 1.8m close-boarded fence to the western boundary, the northern boundary hedge to be retained.
- 6.6 The site would be used by one family – the applicants and their children – and the agent indicates that:-

“The applicant Mr T Buckley is a Romany Gypsy who fulfils the definition in PPTS. He and his partner have two children one of whom is enrolled at the local school. At present they are moving around a number of different stopping places in the area. The family have found land in the area because they have close connections to other Travellers in Essex.

The family travel each summer between April to October, but only during the school holidays as the education of the children is important. They stay on a mixture of friend’s sites, campsites, on the road side and fairs.

Mr Buckley undertakes work while travelling including fencing, landscaping, farm work, and horse dealing. The family attend traditional Gypsy horse fairs such as Appleby, Stowe, Horsemanden, and the Welsh cob sale.

- 6.7 Initially, the proposal was for a permanent site, and the day-room was proposed as a brick and tile permanent building, although the revised plans indicate that the day-room would be constructed from pre-fabricated timber-panels with a felt roof, to allow its removal, and which includes a sitting/kitchen/dining area, a bathroom and utility/store, within a building of 6m x 5m proportions and 4m in height.
- 6.8 There was an initial concern regarding the intrusion in to the countryside and the relatively isolated location of the site and the agent indicates that:-

“The applicant was interested in pursuing the route of a three - five year temporary permission. We would ask for a 4-year permission in this instance.

The justification for this is twofold - one is that the best interest of Mr Buckley's child would be to be able to attend school for a guaranteed period. The early years of a child's education are amongst some of the most crucial. It would also allow the family to have a secure base. On this basis a personal consent would be appropriate. Second, given that the identified need has been met already this would suggest that the need in Tendring may be an underestimate. A period of four years would allow the local plan process to assess this and make adjustments where necessary. This should be sufficient to allow for permission to be granted on a temporary basis.

Consideration

Principle of development

- 6.9 The issue of gypsy and traveller sites is an emotive one, and the PPTS (D.C.L.G Planning policy for traveller sites) does not rule out entirely, the fact that in rural areas, some development will need to be within the countryside, away from existing settlements, and paragraph 14 indicates that Local Planning Authorities should ensure that the scale of such sites does not dominate the nearest settled community, and being a single family site of one household, the proposed development is a very modest one.
- 6.10 The document requires Local Planning Authorities to identify on an annual basis, a minimum of a 5-year supply of deliverable sites to meet the likely need for permanent and transit site accommodation for gypsy and traveller sites in their area, to allocate sites to meet such a need and to establish criteria-based policies to determine applications where there is no identified need and where cases never-the-less come forward.
- 6.11 The adopted local plan policy HG22 is based on an old survey and is therefore out-of-date, and the emerging plan is based on a more recent County-wide needs-survey of Gypsy and Traveller sites, that was not highly successful as many travellers would not be interviewed, and the identified need is not necessarily conclusive.
- 6.12 The applicant has indicated that they intend to object to the policy – on the basis that the need is greater than the survey indicates - and that there are aspects of the policy that they do not consider is consistent with the N.P.P.F and the PPTS.
- 6.13 On the basis that the policy is likely to be challenged through the Development Plan process, then the N.P.P.F indicates that significantly less weight can be attributed to emerging plan policy, and therefore the application would need to be assessed against the N.P.P.F, the PPTS and the general principle of a presumption in favour of sustainable development.
- 6.14 The site is not particularly well located for local services, although the local school – where the applicant’s child is enrolled – is within walking distance, albeit the lane is narrow and with no footpaths or street lighting, and there is the railway station on the main road, and a

post-office/store within Weeley village, however the location of the site does not therefore perform particularly well against the social arm of sustainability, and would be likely to encourage car-usage.

- 6.15 The site would have some very localised environmental impact but when viewed against the environmental arm of sustainability would be a neutral impact and in economic terms, it would also have a neutral effect.
- 6.16 The development, when viewed against the 3 arms of sustainability, could not be considered to be a particularly sustainable development, although this has to be balanced against the N.P.P.F/PPTS requirement to provide sites and the applicant's daughter's human rights to an education and settled life, and the fact that she is enrolled in the school closest to the site, carries appreciable weight, and at appeals, the human rights of the child can carry significant weight in the overall planning balance.
- 6.17 The applicant's 'need' to be at the site therefore has some weight and along with the personal circumstances of their children's education and their objection to the emerging plan, results in a situation that would not be resolved easily, and therefore a temporary permission would appear to be an appropriate way forward in order to advance the local plan and for the applicant's policy concerns to be heard within the proper forum, whilst not contravening their child's human rights in relation to a settled lifestyle and educational needs.
- 6.18 Whilst the applicant has suggested that a 4 year temporary consent would be appropriate, the emerging plan has advanced to a stage where the examination in public is scheduled in to the timescale, and in such circumstances, Inspectors at appeal and the Secretary of State in call-in appeals, generally favour a 2-year temporary permission, and it is considered that such a period would be appropriate in this instance.

Policy issues

- 6.19 Apart from the N.P.P.F and the PPTS, there are few key policies relating to gypsy and traveller sites, and Policy HG22 of the Adopted Local Plan is of some age and based on an old 'needs' survey and must therefore be considered to be out-of-date, particularly as it is a criteria-based policy, whereas current requirements are for allocations to meet identified need and criteria-based policies for assessing other sites/applications.
- 6.20 It is the Governments view that gypsy and traveller sites should be privately-funded, and the expectation is that applications would be made for individual sites, often on an ad-hoc basis, and the current application is for a single plot site to meet the applicant's specific needs, rather than meeting the locally identified need, as referred to in the PPTS.
- 6.21 The proposed site meets many of the stated criteria within HG22, apart from being linked to mains services (there is no public sewer available), and that services - including schools and health facilities and public transport - are not particularly accessible, being some distance from the site along a narrow unlit lane with no footways.
- 6.22 In relation to other criteria of Policy HG22, the development is to meet a specific need; the site has a safe and convenient access with on-site parking/turning; it would not harm the character or appearance of a nationally recognised designated area, and has a minimal impact on other areas, and it would not impact on the residential amenity of nearby dwellings by virtue of noise/disturbance or traffic movements, and therefore meets the spirit of that policy.
- 6.23 The Publication Draft Local Plan, includes Policy LP9, which is based on the new definition of gypsies and travellers in the PPTS 2015, and is evidenced by a more up-to-date survey,

albeit that many travellers would not agree to be interviewed, and on the basis of the survey, the recognised need is particularly low – a requirement for 2-4 pitches – with a further 5 to meet the unknown need, and such a low requirement has not been transposed in to a specific allocation.

- 6.24 Policy LP9 indicates that over-and-above the above 'need' individual applications for gypsy/travellers with a genuine need, would be assessed against the stated criteria-based part of the policy.
- 6.25 The various criteria of Policy LP9 are given in italics below, with the review of the current proposal shown in normal text, as follows:-

The Council will consider proposals against criteria a) to h) below alongside other requirements in the Local Plan:

a. sites must avoid any adverse impacts on any internationally, nationally or locally designated protected areas and must avoid areas prone to flooding;

The site does not affect any designated protected areas, and is not at risk of flooding, based on the Environment Agency flood-maps,

b. sites must have reasonable access to key facilities (normally 1.5 miles/2.4km on foot or 15 miles/24km by public transport to primary schools, doctors' surgeries and convenience shops, 2 miles/3.2km on foot or 20 miles/32km by public transport to secondary schools and major employment);

Access along Gutteridge Hall Lane (a narrow unlit rural lane with no footways or street lighting) is not ideal, although it does lead to the railway station and Clacton Road where bus-stops are located, and the school and post office/convenience store are within m of the site. In terms of distance, the closest Primary School, St. Andrews C of E Primary School, is located 550m (7 min walk) from the site. The closest GP is Great Bentley Surgery which is located 5.9 km (9 min drive/27min train journey) from the site, there is also a local post office & store within walking distance of the site (1.2 km, 15 min walk). Further, the site is well located for access to a range of public transport options. The closest bus stop is 650m (7 min walk) from the site and Weeley train station is located 1.3 km (14 min walk) from the site.

c. sites should, where possible, utilise previously developed land and recognise the scale of nearby communities;

The site is a greenfield one and not previously developed (brownfield), although the scale is very modest which recognises the scale of the nearby community,

d. sites must not exceed ten pitches in size and must make a minimum allowance of 250 square metres per pitch including circulation and amenity space and a maximum of 350 square metres. Sites should normally be 3 miles/4.8km apart with scope for smaller sites to be closer than this;

The site is a single 'pitch' for a single gypsy family (and even when the cumulative impact with the existing 8-pitch site further along Gutteridge Hall Lane is considered) the total number is below the 10 pitches noted in the policy, and it meets the minimum requirement for 250sqm of circulation/amenity space, although it does exceed the upper limit of 350sqm. Whilst there is another gypsy site to the east that is less than 3 miles away, the policy allows for smaller sites to be closer,

e. sites must comprise flat well drained ground and achieve safe access for large vehicles from the local road network and access to utilities;

The site is flat and well drained and allows for safe access from the road network, and the Highway Authority raises no objections,

f. sites must be safe for children, achieve aesthetic compatibility with the surroundings with scope for visual and acoustic screening to protect the amenity of nearby residents; and not impact on high grade utilised agricultural land;

The site would be safe for children, and the site is well screened with additional planting proposed, and it would achieve aesthetic compatibility with its surroundings as the planting matures. The applicant has already erected a fence to the western boundary, although the neighbour is somewhat distant, and the modest nature of the development is such that no amenity issues would arise for neighbours,

g. sites must be of a high quality design and landscaping, providing a good standard of residential amenity for their occupiers; and

The modest nature of the site is such that there would be no wider landscape impact, and the development is an appropriate design, screened behind the front boundary and would provide a good standard of amenity for the occupants

h. sites must be linked to mains services.

The site would be connected to mains water, however, there are no public sewers and the site would be served by a package treatment plant, as was the appeal site nearby.

- 6.26 It can be seen from the above that the proposal meets many of the stated criteria of Emerging Plan policy LP9, although given that the applicant has indicated an intention to make representations to that policy and the evidence base behind it, then little weight can be attributed to that policy at this time.

Character and form of the development

- 6.27 Whilst Gutteridge Hall Lane has a very rural appearance and is narrow, it is not particularly 'open' in the area of the application site, with a greater sense of enclosure due to the roadside trees and hedges, although there would be some distant views from the Weeley direction, and the development would be visible at the entrance and through 'gaps' in the hedges.
- 6.28 The development would as a result, be visible, but any landscape impact would be quite localised, and therefore not unduly harmful.
- 6.29 The Inspector in relation to the appeal at the other site to the north of Gutteridge Hall Lane, concluded that the lane was not of any special landscape and that the development would not be out-of-character.
- 6.30 Whilst the N.P.P.F indicates that the countryside should be protected for its beauty, the modest nature of the development and the localised landscape impact is such that the development would not be 'harmful' for a temporary period.

Highway Safety

- 6.31 The proposed gypsy site is served by an existing field access that is to be upgraded, with a tarmac crossing and turning parking areas.

- 6.32 There is ample parking within the site, and the use of Gutteridge Hall Lane for such a modest proposal – a single gypsy family site - would not generate high volumes of traffic and little more than if the site was utilised for grazing horses for example.
- 6.33 The designation of Gutteridge Hall Lane as a "quiet lane" follows CPRE's successful campaigning, local authorities are able to designate country lanes as 'Quiet Lanes' in rural areas, under the Transport Act 2000, however such designation does not prevent access by vehicles, or prevent development occurring, and currently, the legislation does not afford any user group priority on a Quiet Lane and the use is shared.
- 6.34 The Highway Authority has not commented due to the minor nature of the scheme.
- 6.35 The N.P.P.F states at paragraph 32, that Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe, and in this instance, the resulting highway impact would not be severe.

Residential Amenity

- 6.36 The proposal is for a very modest development, and due to the distance to the nearest residential property, it is unlikely that any disturbance would arise, although due to the rural location, a condition to restrict external lighting would be appropriate.
- 6.37 The Inspector in relation to the appeal for 8 pitches to the east, concluded that the coming and going of traffic from that site would not cause disturbance to other residents, and the same conclusion is reached in this instance.

Overall planning balance

- 6.38 The proposed gypsy site is located within the countryside, and whilst it does not have a high landscape impact, it would be a form of encroachment in to the open rural area.
- 6.39 The N.P.P.F still contains a presumption in favour of sustainable development, as well as the PPTS requiring the L.P.A to meet the local need for sites, and it does not preclude rural sites within the countryside.
- 6.40 The existing local plan policy is based on old information and is out-of-date, and the emerging policy has a more recent evidence base, and identifies only a very modest local need that would be met in part by recent permissions.
- 6.41 The applicant is challenging both the evidence base for the need, as well as the wording of the policy and therefore little weight can be attributed to it, and the applicant needs to be afforded the opportunity to be heard before the examination Inspector for the local plan.
- 6.42 The current proposal meets some of the criteria of both existing and emerging policy, and the applicant considers that the proposal is a sustainable one, although the relatively isolated location in the countryside, along a narrow unlit lane with no footways would be likely to encourage car-usage, suggests that the site does not perform particularly well in terms of sustainable development.
- 6.43 The applicant's need is based on providing for the educational needs of his daughter, who is enrolled in the nearby school, and the human rights of children must be afforded significant weight.
- 6.44 The creation of a modest gypsy site at this location would not cause any significant highway safety concerns, or any appreciable impact on residential amenity.

- 6.45 On balance, the development would cause some harm to the countryside, and performs poorly in terms of sustainability. The policy situation is currently in a state of flux, and the issue is whether the applicant's personal needs based on his children's educational needs is considered to out-weight any harmful impacts.
- 6.46 The Human Rights of children in such circumstances are afforded significant weight by the courts and at appeal, and in the absence of up-to-date development plan policies it is considered that the applicant's proposals have some merit, and given that the resolution of the emerging policy will take some time to advance through the examination process, a temporary approval would afford the applicant some security, and meet his daughters educational needs, whilst allowing him full consideration of the emerging policy through the due process.
- 6.47 The applicant's personal circumstances are considered to be compelling in this instance, and the development is therefore an appropriate one and recommended for a temporary approval.

Background Papers

None