

**5h 3/11/1511/FP – Change of use of land to a private Gypsy and Traveller caravan site comprising 3 no. mobile homes, 2 no. touring caravans, associated hardstanding and installation of septic tank (part retrospective) at Land north of The Old Coach Road, Birch Green, Hertford SG14 2LP for Messrs Thomas and Miley Cash**

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**Date of Receipt:** 15.11.2011

**Type:** Full – Minor

**Parish:** HERTINGFORDBURY

**Ward:** HERTFORD – RURAL SOUTH

**RECOMMENDATION:**

That planning permission be **REFUSED** for the following reasons:

1. The proposal represents inappropriate development within the Green Belt and, together with the provision of necessary access improvements and visibility splays, would be detrimental to the openness of the Green Belt; the character and appearance of this part of the village, and the setting of the adjacent listed buildings. The matters put forward by the applicants in support of the proposal are not considered to be ones to which such weight can be attached as to clearly outweigh the harm to the Green Belt and the other identified harm. The proposed development is therefore contrary to policy GBC1, ENV1, of the East Herts Local Plan Second Review April 2007 and Planning Policy Guidance 2: Green Belts.
2. The site lies within an area of known groundwater importance (Source Protection Zone 3) but the application fails to demonstrate that the proposed means of sewerage disposal would be appropriate and not result in harm to groundwater. As such, the proposal is contrary to policy ENV20 of the East Herts Local Plan April 2007 and government advice given in Circular 03/99 and PPS23 – Planning and Pollution Control.

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**1.0 Background:**

- 1.1 The application site is shown on the attached OS extract. It lies on the northern side of The Old Coach Road and comprises the southern half of a parcel of land situated just to the west of number 12 Birch Green. That property and its neighbours at 8, 10 and 14 Birch Green are all Grade II listed buildings.

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- 1.2 To the south and west of the site are open fields; whilst immediately to the north is the remaining half of the parcel of land which is accessed from within the application site itself via a metal gate in the north east corner.
- 1.3 There is a public footpath which runs to the eastern side of numbers 8 to 14 Birch Green and crosses the land to the north east of the site, leading towards the A414 by-pass. The application site is clearly visible from the footpath at the point where it crosses that field.
- 1.4 The site lies within the Metropolitan Green Belt, an Area of Archaeological Significance and a Wildlife Site as defined in the adopted Local Plan. It is also within an area of land identified by the Environment Agency as a Source Protection Zone (and area of groundwater around a public drinking water abstraction point).
- 1.5 Members may be aware that in August 2011, unauthorised works were carried out on the site involving the leveling of the land; hard surfacing; the erection of fences and its use for the stationing of a number of caravans for residential use.
- 1.6 This breach of planning control was considered serious and the Council sought, and was granted, a High Court Injunction preventing any further works from taking place on the site and also preventing its use for the stationing of residential caravans.
- 1.7 However, as works continued on site and the caravans were not removed, the Council brought further proceedings in the High Court for the breach of the injunction. The defendants were found guilty and one was initially imprisoned. The action did, however, also result in the cessation of the use of the site and the removal of some of the hardstanding.
- 1.8 In addition to this action, the Council also served two Enforcement Notices seeking the removal of all the hard surfacing on the site and the cessation of the residential use. Both Notices were withdrawn however, in view of the cessation of the use and the existence of the injunction, and an amended Notice (giving a reduced compliance period) was served in October 2011, requiring the removal of the hard surfacing. An appeal has been lodged against this Enforcement Notice.
- 1.9 The current application was originally submitted in August 2011, at the time of the original unauthorised works, but was not in a completed form until 15<sup>th</sup> November 2011. It seeks planning permission for the use of the site as a private Gypsy and Traveller caravan site comprising 3 no.

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mobile homes, 2 no. touring caravans, associated hardstanding and the installation of septic tank.

1.10 In support of their application, the applicants comment that, whilst the use represents inappropriate development in the Green Belt, there are other considerations which clearly outweigh any harm to it, such that they constitute the very special circumstances required to allow the development. Those other considerations are said to be:-

- The need for Gypsy and Traveller accommodation regionally, locally and personally;
- The lack of suitable alternative sites;
- The personal circumstances of the applicant families;
- Deficiencies with Development Plan policy provision for Gypsy and Traveller caravan sites in East Hertfordshire
- The consequence of the application being refused
- Human Rights considerations

1.11 The application is also submitted with a Phase 1 Habitat Survey (carried out on 5<sup>th</sup> August 2011 before any works took place on site) which states that the site is not considered suitable for potential bat roosting habitat (although the ash tree in the south west corner of the site is recommended to be retained). The survey also identified that the site is not considered to provide good quality reptile habitat as a result of disturbance/grazing. No badger activity was found and the connectivity to ponds identified within a 500m radius of the site is considered to be poor, given the dispersal barriers created by human development and land management regimes. In this regard, the survey identified that the site is not considered to be suitable habitat for great crested newts.

1.12 Officers understand that the applicant has recently lodged an appeal with the Planning Inspectorate on the grounds that the Council has not issued a decision on this application within the 8 week period (which expired on 10<sup>th</sup> January 2012). This was of course, due to the need to report the application to the Committee and the 1<sup>st</sup> February committee is the earliest such opportunity, allowing for the receipt and consideration of necessary consultation responses. This appeal, if it is validated by the Inspectorate before the committee meeting, will mean that the Authority cannot issue a decision on this application. However, in order for Officers to clearly set out the Council's case at the forthcoming appeal, Members will, in any event, be asked to confirm the decision that would have been reached, had the appeal not been lodged.

1.13 Officers will update Members at the meeting as to whether an appeal

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against 'non-determination' has been confirmed by the Planning Inspectorate.

### **2.0 Site History:**

2.1 Outline planning permission was refused in January 1989 (Ref: 3/88/2612/OP) and in January 1994 (Ref: 3/93/1650/OP) for the erection of a single dwelling on the application site. The reasons for refusal in each case related to Green Belt policy; piecemeal backland development out of keeping with the character of the area; and intrusion into the open countryside.

### **3.0 Consultation Responses:**

3.1 Hertfordshire Biological Records Centre does not object to the application but, in the event that planning permission were to be granted, suggest several conditions relating to ground clearance and the retention of trees/hedging at the boundaries of the site for wildlife habitat.

3.2 Natural England does not wish to comment but suggests that the impact on the local wildlife site be considered prior to the determination of the application.

3.3 The Herts and Middlesex Wildlife Trust has no objection to the proposal subject to a number of conditions to safeguard against harm to protected species.

3.4 The Council's Planning Policy team comments on the policy background to the provision of Gypsy and Traveller accommodation in the District (which is considered more fully in the 'Considerations' section of this report) and concludes that "the application fails to comply with either the policies of the Local Plan Second Review 2007 (saved policies) or with the most recent Government policy and guidance.' They recommend refusal of the application.

3.5 The Highway Authority does not wish to restrict the grant of permission subject to a number of conditions regarding the widening of the access, the provision of visibility splays and the provision of adequate parking/manoeuvring space within the site. They comment that the width of the access requires widening to ensure that two way traffic is possible and the existing frontage/hedge will require cutting back to provide adequate visibility for and of vehicles using the access drive. These matters are however, considered to be achievable on land within the control of the applicant and could therefore be secured by condition.

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- 3.6 The Environment Agency objects to the proposal because no non-mains foul drainage assessment has been provided. There is insufficient information therefore to properly assess the risk to groundwater.
- 3.7 The County Archaeologist states that, as the application is retrospective, any impact upon significant heritage assets has already occurred and therefore they have no comment to make on the proposal.

#### **4.0 Parish Council Representations:**

- 4.1 Hertingfordbury Parish Council objects to the proposal for the following reasons:

- “1. Birch Green is a category 3 village. As such there is a presumption against development (see OSV3 of the Local Plan).
2. The proposed development is contrary to policy GBC1 Appropriate Development in the Green Belt in that it does not meet the identified needs of the village or parish in accordance with Policy HSG5 (Rural exceptions).
3. The site also lies within an Area of Archaeological Significance (EH238), where Policies BH1, BH2 and BH3 apply; and within a buffer zone relating to Birch Green Pond Wildlife Site (58/056), where Policy ENV14 applies.
4. The proposal is within the greenbelt and therefore does not meet the dispensation requirements of HSG10 III (Accommodation for Gypsies).
5. The site is adjacent to several grade II listed buildings and detrimentally impacts upon their setting and curtilage.
6. The visibility for vehicular traffic entering or exiting the site is poor and could be dangerous given the nature of the road and the proximity to the traffic calming island.

In addition, we note that two planning applications have been refused for the same site in the past 1988 (Ref 3/88/2612/OP) & 1993 (Ref 3/93/1650/OP)”

#### **5.0 Other Representations:**

- 5.1 The applications have been advertised by way of press notice, site notice and neighbour notification.
- 5.2 104 individual letters of objection have been received, together with letters from the Birch Green Residents Action Group; the Hertingfordbury Conservation Society and the Campaign to Protect Rural England (CPRE). A petition against the development with 45 signatures has also

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been received. The main objections can be summarised as follows:-

- Contrary to Green Belt policy and two earlier applications refused
- Contrary to policy OSV3 of the Local Plan
- Incursion into the open countryside
- Contrary to policy HSG10
- 'Very special circumstances' put forward by the applicants are not evidenced or, in any event, sufficient to justify development in the Green Belt
- There are other available Gypsy and traveller sites nearby and in East Herts
- Impact on nearby listed buildings
- Harmful to character and appearance of the village and nearby listed buildings
- Intrusion into the surrounding countryside; extending ribbon development
- Poor visibility from the access and hazard to highway safety particularly in view of proximity to the school
- Increase in traffic
- Will create unnecessary noise for adjoining residents
- Will spoil views from the public footpath which skirts the site
- Impact on local wildlife – especially Great Crested Newts
- Proposal may set an unwelcome precedent – especially for the other half of this field
- Businesses may be run from the site.
- Impact on the provision of local services from more development
- There is an existing enforcement notice on the land.

#### **6.0 Policy:**

6.1 The Development Plan comprises the East of England Plan (EEP) May 2008 and the saved policies of the County Structure Plan and the Local Plan Second review April 2007.

6.2 The relevant policies of the EEP in this case are:-

H3 - Provision for gypsies and travellers  
SS7: Green Belt

Although the Government announced the revocation of the Regional Plan in July 2010, subsequent legal proceedings have confirmed that, until primary legislation is amended, the EEP remains part of the statutory Development Plan.

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6.3 The relevant 'saved' Local Plan policies in this application include the following:

- GBC1 - Green Belt
- HSG10 - Accommodation for Gypsies
- BH1 - Archaeology and New Development
- BH2 - Archaeological Evaluations and Assessments
- BH3 - Archaeological Conditions and Agreements
- ENV1 - Design and Environmental Quality
- ENV14 - Local Sites
- ENV20 - Groundwater Protection

6.4 In addition, the following National policy guidance is relevant:-

- Planning Policy Guidance 2: Green Belts
- Circular 01/2006 (and draft replacement): Planning for Traveller sites
- Circular 03/99: Non-Mains sewerage
- Draft National Planning Policy Framework – but little weight can currently be attached to this.

### **7.0 Considerations:**

7.1 The determining issues in this case relate to Green Belt policy; the impact of the proposed development on the character and appearance of the area; highway safety; groundwater protection; archaeology and impact on wildlife in the area and whether the material considerations advanced by the applicants (including the need for Gypsy accommodation in the District) amount to the 'very special circumstances' required to justify otherwise inappropriate development in the Green Belt.

#### Green Belt policy

7.2 The application site lies within the Metropolitan Green Belt wherein there is a presumption against inappropriate development and, as stated in Policy GBC1 of the Local Plan, permission will not be given, except in very special circumstances, for purposes other than those detailed in PPG2.

7.3 PPG2 goes on to define the types of development which are considered appropriate in the Green Belt. The uses and development the subject of this application (the creation of hardstanding and the siting of mobile homes/caravans for residential occupation) do not fall within these stated types. Furthermore, Officers consider that the development fails to

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maintain the openness of the Green Belt and conflict with the purposes of including land within it. They therefore constitute inappropriate development within the Green Belt which, by definition, is harmful to it.

- 7.4 PPG2 requires that substantial weight is given to the harm to the Green Belt when considering any planning application concerning such development and it is clear that planning permission should not be granted for this proposal unless there are other matters to which such weight can be given that they clearly outweigh the harm to the Green Belt by inappropriateness and any other harm, such as to amount to 'very special circumstances' for permitting this inappropriate development in the Green Belt.

#### Other harm

- 7.5 In addition to the harm by reason of inappropriateness, Officers consider that the development would result in additional harm to the area in terms of its impact on the character and appearance of the area and the potential risk to groundwater protection from the proposed sewerage system.
- 7.6 Whilst the site is currently well screened from the highway and the land to the west of the site by native boundary hedging, it is clearly visible from the footpath to the north east of the site. Officers consider that the proposed development would be prominent in the view from the footpath and would be at odds with the rural character and appearance of the surrounding area.
- 7.7 Furthermore, the provision of the visibility sight lines required to ensure that safe access and egress can be created would, in places, necessitate the cutting back and/or removal of some parts of the front boundary hedgerow. Officers are concerned that this would be detrimental to the rural character and appearance of the site itself and the surrounding area, particularly as the site is prominent at the entry to the village from the west.
- 7.8 The prominence of the development from the public footpath to the north east of the site and the provision of satisfactory sight lines would, therefore, add to the harm caused by the development.

#### Listed Buildings

- 7.9 Officers also consider that the siting of the proposed development, adjacent to this group of listed buildings, would be detrimental to their setting and historic character. This would be contrary to the national



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planning policies contained in PPS5 and adds to the harm caused by the proposal.

#### Highway safety

- 7.10 In terms of highway safety, several residents have commented that the development would result in a harmful increase in traffic which would be detrimental to highway safety in the area. The Highway Authority, however, is satisfied that, with improved access arrangements, the proposal would be acceptable from a highway safety perspective. There is ample space within the site for the parking and turning of vehicles and it is not considered that there would be an unacceptable detrimental impact on highway grounds.

#### Archaeology

- 7.11 As regards the archaeological implications of the proposed development, Officers note the consultation response from the County Archaeologist. The works to create the hardstanding on the site have already taken place and, in these circumstances, Officers cannot determine that there has been any harm to archaeology on the site.

#### Wildlife

- 7.12 Similarly, in respect of the nearby Wildlife site, Officers are satisfied from the biodiversity survey carried out, and the representations received from the Council's own ecological advisors, that the proposed development would not have any adverse impact on protected species or their habitats. Again it is considered that suitable planning conditions could be imposed to ensure that the development did not adversely affect wildlife in the area. It is not therefore considered that unacceptable harm would be caused in this respect.

#### Groundwater Protection

- 7.13 The Environment Agency has confirmed that the site overlies Kesgrave Sands and is in Source Protection Zone (SPZ) 3. SPZ's define an area of groundwater around a public drinking water abstraction point which must be protected.
- 7.14 Circular 03/99 advises that, when drawing up sewerage proposals for any development, the first presumption must always be to provide a system discharging into a public sewer. Only if this is not feasible should alternative methods be considered, such as septic tanks. In such cases, the developer should submit a non-mains foul drainage assessment to

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confirm that no adverse effects (as set out in Annex A to the circular) will arise.

- 7.15 This assessment has not been submitted with this application, although a septic tank is proposed, and therefore it is not possible to adequately assess any harm that might result from the proposed foul drainage system. There is therefore a potential risk to groundwater in the area and this is contrary to policy ENV20 of the Local Plan and to national planning advice set out in PPS23. Officers therefore consider that there is the potential for harm to be caused by the development as a result.
- 7.16 In summary therefore, Officers consider that the additional harm identified in this case relates to the visual impact of the development on the character and appearance of the area, particularly as a result of the provision of satisfactory vehicular visibility sight lines; the setting of the adjacent listed buildings and the potential risk to groundwater in the area. The harm caused by reason of inappropriateness, together with this additional harm must therefore be clearly outweighed by other planning considerations to which such weight can be given such as to amount to the very special circumstances required to permit development in the Green Belt.

#### Very special circumstances

- 7.17 The applicants accept that the proposal is harmful to the Green Belt by inappropriateness at least, but argue that there are other material considerations which combine to clearly outweigh this harm and any other identified harm such as to constitute those 'very special circumstances'. These considerations are summarised in paragraph 1.8 of this report and are discussed in more detail below.

#### Gypsy need and lack of alternative sites

- 7.18 The applicants' agent argues that there is a need for further sites for Gypsy and Traveller accommodation both regionally and locally and that the policy provision for such accommodation in the Development Plan is deficient in this respect. This, they indicate, contributes to very special circumstances in this case.
- 7.19 Members will be aware that local authorities have a responsibility to plan for the accommodation needs of the Gypsy and Traveller community. The Housing Act 2004 (Section 225) requires local authorities to consider Gypsy and Traveller sites as part of their Accommodation Assessments and to prepare strategies to meet those needs.

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- 7.20 ODPM Circular 01/2006 provides guidance on 'Planning for Gypsy and Traveller Caravan Sites'. This states that local authorities must allocate sufficient sites for Gypsies and Travellers in their Site Allocation Development Plan Documents to meet the requirement identified in the Regional Spatial Strategy (RSS).
- 7.21 In accordance with Circular 01/2006, the Council (in partnership with Broxbourne Borough, North Hertfordshire District, Stevenage Borough, Welwyn Hatfield Borough and Hertfordshire County Councils) employed consultants to carry out a Gypsy and Traveller Accommodation Assessment (GTAA) in the study area. The Northern and Eastern Hertfordshire Gypsy and Traveller Accommodation Assessment (GTAA) was published in June 2006 and identified a need for 45 pitches (35 permanent, 10 transit) to be provided in the overall study area by 2011 (but specific pitch numbers were not allocated to individual Authorities). The Accommodation Assessment further advised that continuing provision for around 15-20 additional pitches over the five authority areas would need to be made every 5 years due to household formation expected over the next 25 years.
- 7.22 This GTAA, along with others covering the rest of the East of England area, was submitted to the East of England Regional Assembly (EERA) to inform the preparation of a Single Issue Review (SIR) policy, intended to meet the outstanding and future needs of Gypsies and Travellers in the region. The consultation draft SIR in the *East of England: Issues and options* document offered a series of options for the delivery of the 45 identified pitches in the N and E Herts area. The East Herts 'Option 1' target was for 5 pitches in the District.
- 7.23 The process leading to final adoption of the SIR was a lengthy one with the emerging Policy taking differing approaches in terms of the distribution of overall pitches required to meet identified Gypsy and Traveller accommodation needs within the region as its development progressed. East Herts Council made representations at each consultation stage and appeared at the Examination in Public (EiP) to reiterate its position that need should be met where it was locally arising and that a target provision of 5 pitches was therefore appropriate for East Herts.
- 7.24 This view was, however, not supported by the then Secretary of State and the final version of the policy was based on the principle of spreading provision over a wider area than that within which it occurred. Each authority was therefore allocated a target provision of at least 15 pitches, unless special local circumstances restricting provision applied.

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- 7.25 The final version of revised RSS Policy H3 in fact required East Herts specifically to make provision for at least an additional 25 permanent Gypsy and Traveller pitches within the district by 2011 (with a further 21 additional pitches to be provided for the period 2011-2021).
- 7.26 Post adoption of Policy H3, four pitches were provided in East Herts at The Stables, Bayfordbury. These were granted on appeal and were in addition to the previously existing pitches at that location. Six additional pitches were also granted permission in High Cross in December 2010. This has reduced the 'to find' figure by 2011 from 25 to 15 (or from 46 to 36 by 2021).
- 7.27 However, whilst it is recognised that Policy H3 is currently extant, the Government is in the process of abolishing Regional Spatial Strategies and when this is fully enacted, Policy H3 will cease to be of effect. In terms of future national guidance towards Gypsy and Traveller provision, the Government has, from an early stage in the revocation process, provided local authorities with advice on how to proceed in respect of determining the level of provision to be made. This has indicated that Councils may choose to review their provision at the local level and suggests that the Gypsy and Traveller Accommodation Assessments, where completed, would form a good starting point.
- 7.28 This steer towards the findings of GTAAs is helpful; however, in the case of the Northern and Eastern Hertfordshire Partnership GTAA, only a study-wide figure of 45 pitches (35 permanent pitches plus 10 transit) is given and there are no district specific targets included. It is therefore not possible to rely on this document alone to establish a separate figure for East Herts over any other local authority in the Partnership.
- 7.29 However, government advice, in respect of housing allocations generally, also suggests that Councils may use evidence gathered to inform the preparation of Regional Strategies and therefore that Regional Strategy targets could be replaced by 'Option 1 figures' if that is considered the right thing to do for the District.
- 7.30 In the case of Gypsy and Traveller provision in the East of England Plan, the figure for East Herts Gypsy and Traveller accommodation provision to 2011 under 'Option 1' of the Issues and Options Consultation, May 2007, was 5 pitches.
- 7.31 The proposed 'Option 1' allocations are in fact the only currently available district specific figures that reflect the findings of the benchmarked GTAAs across the region to illustrate local need as arising. Therefore, Officers consider it appropriate that this figure of 5 pitches is

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the most sensible starting place as a basis for establishing pitch provision in this district.

- 7.32 However, it should be noted that whatever figure is considered representative of district need to 2011, there will be a further requirement on the Council to provide sufficient pitches to ensure local need to 2031 is met within its LDF.
- 7.33 To establish a figure to cover the period from 2011-2031 is even more problematic than providing a robust figure to 2011, as the Option 1 scenario from the EERA RSS SIR May 2007 Issues and Options consultation does not go beyond 2011 provision. This is because further projections were not made at this stage for either Option 1 or Option 2. However, if the same method of projection to 2021 is applied to the Option 1 figure that would have been achieved via Policy H3, then the East Herts proportional share of the overall 1038 regional total for the additional pitches required in the period 2011-2021 would equate to 4.2 pitches, rounded to four.
- 7.34 This would therefore provide the Council with an indicative target totalling nine pitches to be provided for the period from 2006 to 2021. With four pitches already provided in 2009 on an existing private site at The Stables in Bayfordbury, and permission granted in 2010 for an additional six pitches on another existing private site at Nine Acres, High Cross, it is considered that the district would not only already have met its need over that period under that scenario, but would have slightly exceeded it.
- 7.35 In respect of further provision to 2031 this would be considered as part of the future LDF and it is likely that this would follow a further round of GTAA's
- 7.36 In summary, while the abolition of RSS's is clearly in-train, it is fully accepted by Officers that there will remain a requirement on local authorities to meet the accommodation needs of Gypsies and Travellers. However, the draft PPS *Planning for Traveller sites* (April 2011) supports the Council's view that the targets in the RSS should be given less weight and that the intention to replace those targets with locally based targets is a material consideration to which considerable weight should now be given. Therefore, in terms of current need in the district, if Option 1 figures are accepted as suitable for application, then no additional pitches would need to be provided in East Herts for the period to 2021, with provision to 2031 yet to be determined.
- 7.37 In the interim, Gypsy and Traveller accommodation proposals will be judged against the provisions of the RSS; the Government's stated

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intention to abolish the RSS; the advice given to Local Authorities as a result of that intention regarding future provision; and the provisions of the adopted Local Plan.

- 7.38 Policy HSG10 of the adopted Local Plan is a criteria based policy and in this case it is considered that the proposed development does not comply with these criteria due to the adverse impact it would have on the character and appearance of the area.
- 7.39 In addition to the criteria listed in part II of the policy, HSG10 also reiterates government advice given in Circular 1/2006 and PPG2 that, in the Green Belt, Gypsy and Traveller sites are inappropriate and that it will need to be demonstrated that any harm caused to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations such as to amount to very special circumstances.
- 7.40 The applicants argue that the shortfall in Gypsy and Traveller provision across the district is one such consideration. However, whilst the Council accepts that there is a shortfall of provision against the RSS policy provision, this has to be weighed against the Government's stated intention to abolish the RSS and its guidance on future Gypsy and Traveller provision as mentioned above. The Council does not accept that there is a need for further Gypsy and Traveller sites up to 2021 in the District. Furthermore, even if the RSS figures were to be accepted, the Council does not consider that this would justify the provision of accommodation on this site within the Metropolitan Green Belt.
- 7.41 Whilst the identification of suitable land in the District for Gypsy sites is difficult due to the large amount of land designated as Green Belt or Rural Area as defined in the Local Plan, Officers consider that future provision and even the additional provision required under the RSS could be more appropriately provided within other sites that are not located within the Green Belt.
- 7.42 Officers do not therefore consider that there is an urgent need for Gypsy and Traveller accommodation in the District and that any future need can be met elsewhere outside the Green Belt. The 'need' argument put forward by the applicant is not therefore considered to be a material consideration of significant weight in this case.

#### Personal circumstances

- 7.43 In addition to the general 'need' argument, the applicants also state that their personal circumstances are a material consideration of significant weight in this case. However, they do not elaborate on what these

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personal circumstances are. Their 'health and education needs' are cited, but without elaboration or evidence being submitted to clarify the statement.

- 7.44 Although the personal circumstances are not set out in the applicants' submission, Officers are aware, from the earlier enforcement proceedings at the site that some of the applicants' family members are in need of regular medical treatment and this was cited as a reason for them to be settled in a location close to medical facilities. Officers are also aware that the appellants wished to be settled near to a school so that the children could access appropriate education services. Officers have taken these circumstances into account, but do not consider that they outweigh the identified harm caused in this case.
- 7.45 In summary therefore, Officers cannot agree that the considerations put forward by the applicant ( as summarised in 1.8 of this report) are of such weight, either separately or in combination, as to constitute the very special circumstances required to clearly outweigh the harm caused to the Green Belt in this case.

#### Human Rights

- 7.46 Officers have considered the human rights of the applicants under Article 8 of the European Convention on Human Rights. However, it should of course be noted that Article 8(2) allows interference by a public authority where the interference accords with the law and is necessary in a democratic society for the wider public interest and for the protection of health.
- 7.47 In this case, the Council considers that the harm caused to the Green Belt by the proposed development is of particular importance and is sufficient justification for the local planning authority to refuse planning permission.
- 7.48 Officers have also considered whether temporary permission should be given for the proposed Gypsy accommodation. However, as there is no immediate need for such accommodation in the district and that harm is being caused to the Green Belt; the Council does not consider that a temporary planning permission is appropriate in this case.

### **8.0 Conclusion:**

- 8.1 The site lies within the Metropolitan Green Belt and Officers consider that the proposed development constitutes inappropriate development. As such, in accordance with national and local planning policy, it should not

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be permitted unless the applicants have shown that there are other material planning considerations to which such weight can be given that they amount to very special circumstances which clearly outweigh the harm caused by inappropriateness and any other harm.

- 8.2 For the reason set out in the above report, Officers do not consider that the issues set forward by the applicants are of such significance as to clearly outweigh the harm caused in this case by inappropriateness and the impact of the proposal on the character and appearance of the surrounding area. It is therefore recommended that planning permission be refused for the reasons given at the head of this report.