

Session 10B –Gypsies, Travellers and Travelling Showpeople.

Inspector's Question 10.1

What is the source of the claimed requirement to consult with the settled community and what is MBC's response to the complaint about lack of consultation?

Council's response

10.1.1 The PPTS is not specific that the assessment of needs must have the input of the settled community, whereas it does specify that there should be co-operation with traveller groups to understand accommodation needs (paragraph 7(b)). The Council considers that the Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (HOU 001) is a robust and objective assessment of needs as required by the PPTS (paragraph 7(c)).

10.1.2 The evidence base needed to support the Plan's approach to Gypsy and Traveller development (paragraph 7 of the PPTS) is not limited to the assessment of needs. The Council's evidence base also comprises the process the Council followed to identify sites which is explained in HOU 006. The 'Call for Sites' requests were fully publicised including with parish councils to try to help the positive identification of sites.

10.1.3 There has also been full, wider engagement with the settled community through the consultation stages for the Local Plan itself. Importantly it is in the Local Plan that the outcomes of the objective assessment of needs and the site identification process have been translated into site specific proposals upon which residents and others have been able to comment and have their views considered.

Inspector's Question 10.2

As there would be a significant shortfall in site allocations against the assessed needs, would a revised assessment necessarily affect the need for such allocations or only the allowance for development on unidentified sites?

Council's response

10.2.1 The Council considers that the extent of any change to the overall assessment of needs resulting from the revised definition is likely to be modest (as set out in SUB 004, paragraphs 13-15). In these circumstances, it is not considered that any new assessment (even if its preparation were justified) would obviate the need to make the allocations that are in the submitted Local Plan.

Inspector's Question 10.3

When would MBC intend to next assess needs and would that necessarily be part of a review of all housing needs?

Council's response

10.3.1 An updated assessment of needs would be in all likelihood linked to assessment of wider housing needs in the light of recent legislative change in the Housing and Planning Act 2016. It is expected that this would take place at the point of a Local Plan review. The Council considers that the current assessment (HOU 001) provides a reasonable and robust evidential basis for the Local Plan.

Inspector's Question 10.4

Would it be proportionate to reassess need now on the basis of the most recent Government policy and how could the associated delay be accommodated?

Council's response

10.4.1 The Council considers that it would not be a proportionate response to pause the Local Plan Examination process whilst a new assessment is undertaken. As stated, the Council considers that the current assessment provides a reasonable, robust evidential basis for the Local Plan. Based on experience, the delay caused could be significant. The current assessment took some 5 months to complete from the date of the consultants' appointment. This reflects the time needed to achieve sufficient site based interviews and the analysis of the resulting information.

10.4.2 Further there is no finalised Government guidance about how such assessments should be undertaken. There is some risk that any assessment could become outdated if the Government published confirmed guidance subsequently which proposed a different methodological approach.

10.4.3 As outlined above, the legislative position is that Gypsy and Traveller needs are now encompassed within wider housing needs assessments. There is no need or justification to review the SHMA at this time.

Inspector's Question 10.5

What purpose does the word 'inappropriate' serve in the above and would it be better replaced by e.g. 'significant'?

Council's response

10.4.2 It is agreed that 'significant' is a better term to use in this context.

PC/108	Policy DM16; Amend section 2 as follows; 2. The development would not result in inappropriate <i>significant</i> harm to	To improve the clarity of the Plan.
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	(PC/52) the landscape and rural character of the area, in particular the Kent Downs Area of Outstanding Natural Beauty, and the openness of the Metropolitan Green Belt....	
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Inspector’s Question 10.6

Would MBC please provide a response to this objection?

Council’s response

10.6.1 Ulcombe Parish Council is seeking the deletion of sites GT1(15) – Hawthorn Farm and GT1(16) – Neverend Farm from the Local Plan. The reasons for this are that the sites are in open countryside and are within the Low Weald SLA. The parish council states that the existing and allocated Gypsy and Traveller sites in the area serve to dominate the rural village and threaten social cohesion.

10.6.2 In response, the Council considers that these sites are appropriate for allocation. They have been subject to a full site assessment process as set out in the Gypsy & Traveller Sites Assessment (HOU 006). The specific site assessment proforma for Hawthorn Farm (site reference GT4) can be found in HOU 006B (pages A11-A14) and the proforma for Neverend Farm (site reference 0109) can be found in HOU 006F (pages F55-F59). The Neverend Farm assessment acknowledges the presence of the Roydon Farm site, to which the parish council refers, and concluded that there was sufficient visual and physical separation to avoid an adverse cumulative landscape impact.

10.6.3 Since the assessments were undertaken, consent has been granted at appeal on the Roydon Farm site for 7 mobiles and 7 tourers (equating to 7 pitches). The decision dated 10th February 2016 is included in Appendix A (APP/U2235/W/15/3053100). The Inspector in this case noted the presence of the other sites nearby and concluded that the cumulative visual impact would not be significant. The Inspector also did not agree that the proposal would cause significant material harm to local infrastructure.

Inspector’s Question 10.7

If the site has permission would deletion of the allocation have any practical effect?

Council’s response

10.7.1 This site has a permanent consent for 1 mobile and 1 tourer (MA/05/1681). An application for 2 additional mobile homes was granted on appeal in 2008 (MA/07/2248) for a temporary period and this was renewed in 2012 for a further temporary period of 3 years (MA/12/1908). Whilst an application for permanent consent for 2 additional mobiles (MA/16/505005) was recommended for approval at Planning Committee on 15th September the Committee resolved to refuse the application. The reason for refusal was;

The two additional units would be more prominent at the north-western end of the site and any supplementary landscaping would not mitigate the harm to the landscape and character of the countryside with the site being located in an unsustainable location

removed from local facilities. This is contrary to policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and the National Planning Policy Framework.

10.7.2 The Local Plan identifies that this site has capacity for 3 pitches, a net gain of 2 permanent pitches. Notwithstanding the Planning Committee decision, the site remains an allocation in the Local Plan. The Committee placed weight on the adopted Local Plan above the emerging Local Plan which would not be the case once the submitted Local Plan is adopted.

10.7.3 At the time of writing, an appeal against this decision has not been submitted. The Council has not issued an Enforcement Notice.

Appeal Decision

Site visit made on 14 October 2015

by **Paul Dignan MSc PhD**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 February 2016

Appeal Ref: APP/U2235/W/15/3053100

Land adjacent to Roydon Farm, Pye Corner, Ulcombe, Kent, ME17 1EF.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr W Stacey against the decision of Maidstone Borough Council.
 - The application Ref. 15/500326/FULL was dated 7 January 2015.
 - The development proposed is the change of use of land to 7 No. Gypsy/Traveller pitches and associated works including 7 No. static caravans, 7 No. touring caravans, package treatment plant and hard standing.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of land to 7 No. Gypsy/Traveller pitches and associated works including 7 No. static caravans, 7 No. touring caravans, package treatment plant and hard standing at Land adjacent to Roydon Farm, Pye Corner, Ulcombe, Kent, ME17 1EF in accordance with the terms of the application, Ref. 15/500326/FULL, dated 7 January 2015, and the plans submitted with it, subject to the conditions set out in the Schedule attached to this decision.

Reasons

2. The appeal site is a strip of pasture land in the open countryside about 1.2km south of the village of Ulcombe. I have amended the description of the site to more accurately reflect the location. The Council has indicated that had it determined the application it would have refused planning permission because it considered that "The proposed development, by way of its size and scale, would result in an incongruous feature in the countryside, visible from public vantage points, that would lead to demonstrable harm to its character and appearance and the quality of the rural landscape, contrary to policies ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000." A previous application for 10 pitches on the same site was refused in September 2014 for the same reason.
 3. The landscape in the vicinity of the appeal site is in relatively flat agricultural land, interspersed with hedgerows and woodland blocks. The site itself is fairly well enclosed. There is an orchard immediately to the north with a row of conifers behind, a dense hedgerow to the east along the access laneway, a hedgerow and farmyard/agricultural plastics recovery and storage yard to the west and blocks of woodland or hedgerows to the south, all of which limit mid- to long-distance views into the site. There are also other gypsy/traveller caravan sites nearby, to which the proposed site would be well related without significant cumulative visual impact. In this context the proposed development would be far from intrusive visually, and would be neither incongruous
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nor discordant. There is also ample scope for landscaping to ensure that the site is well integrated into the landscape, as indicated in the application plans.

4. A 5m section of hedgerow and a small tree would be removed from the eastern hedge to provide access to the site, but the proposed landscaping would avoid significant adverse impacts on views from the cross-field public footpath further east.
5. Overall I am satisfied that the proposed development would not cause harm to the scenic quality and distinctive character of the Low Weald Special Landscape Area within which it lies, and as such it would accord with Policy ENV34 of the Maidstone Borough-Wide Local Plan 2000 (LP). Policy ENV28 is a more general countryside protection policy which, along with seeking to avoid development which harms the character and appearance of the area, also restricts residential development in the countryside to that which is necessary to support the rural economy. It is not argued that the proposal is necessary for rural economy purposes, but the policy predates the National Planning Policy Framework (NPPF) and must be read in that context, along with the government's Planning Policy for Traveller Sites (PPTS). PPTS advises very strictly limiting new traveller site development in open countryside that is away from existing settlements, but the Council acknowledges that the site is reasonably well located in sustainability terms, and there is a need for further gypsy/traveller pitch provision in the Borough. I conclude accordingly that the proposed development would not conflict with LP Policy ENV28 insofar as it is consistent with the NPPF and PPTS.
6. PPTS also advises that sites in rural areas should respect the scale of, and not dominate, the nearest settled community, and avoid placing undue pressure on the local infrastructure. Local Parish Councils are concerned that the cumulative effect of the number of gypsy and traveller sites in the area is putting significant pressure on local infrastructure. However, having regard to the need for further sites in the Borough, the relatively small scale of this proposal, and the absence of objection from the Council I am unable to conclude that the proposal would cause material harm in this respect.

Conditions

7. In addition to the standard commencement condition, in view of the relevant national policy considerations it is necessary to restrict occupation to gypsies and travellers. In the interests of protecting the character and appearance of the area, I shall require that the development be carried out in accordance with the submitted plans, and I shall also impose conditions to secure appropriate landscaping, foul and surface water drainage measures, and control over external lighting. For the same reason I shall specify the number and type of caravans and preclude commercial activities on the site. I shall also require that children's play areas and vehicle turning and manoeuvring areas be used for no other purpose, in the interests of residential amenity. Where necessary I have reworded the Council's suggested conditions for clarity and to ensure consistency with national planning practice guidance.

Overall Conclusion

8. For the reasons given above, having considered all other matters raised, I conclude that the appeal should be allowed.

Paul Dignan

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No. KS14-SLP, Drawing No. TDA.2093.01 Revision A.
- 3) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary to Planning Policy for Traveller Sites.
- 4) There shall be no more than 7 pitches on the site, and on each of the 7 pitches hereby approved no more than 2 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 1 caravan shall be a static caravan.
- 5) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development, details of the retention and reinforcement of the existing hedgerow to the north and east site boundaries, additional hedging along the exterior of the south and west side boundaries, and a programme for the approved scheme's long term management. Development shall be carried out in accordance with the approved details.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the commencement of the use or the completion of the development works, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 7) Details of any external lighting shall be submitted to and approved in writing by the local planning authority before the use hereby permitted begins. Development shall be carried out in accordance with the approved details.
- 8) No development shall take place until full details of the means of sewage and foul water drainage treatment and waste disposal have been submitted to and approved in writing by the local planning authority. The submitted details should include the size and type of treatment systems, the precise location of the plant plus any other relevant information, including where any system will discharge to. The approved details shall be implemented in full before the site is first occupied, and shall be maintained thereafter. Any plant or equipment comprised in the approved details shall be maintained thereafter in accordance with the manufacturer's instructions.
- 9) No commercial activities shall take place on the land, including the storage of materials or vehicles or livery use.
- 10) The children's play areas and vehicle turning and manoeuvring areas shown on approved drawing No TDA.2093.01 Revision A shall be retained as such for the life of the development and shall not be used for any other purpose.