

# Fareham Borough Council Local Plan Examination Council's Response to Inspector's Matters and Issues

## **Matter 5 Gypsies, Travellers and Travelling Showpeople**

### ***Policy HP11 Gypsies, Travellers and Travelling Showpeople***

#### **1.The Gypsy and Traveller Accommodation Assessment (GTAA) dates from 2017. Does it provide a robust up to date evidence base?**

- 1.1 Yes, the Council considers the GTAA (HOP005) a robust and comprehensive evidence-based assessment of the current and future need for accommodation for gypsies, traveller and travelling showpeople.
- 1.2 The GTAA was carried out by Opinion Research Services (ORS) who have undertaken over 150 GTAAs for local authorities since the 2015 PPTS. The ORS GTAA methodology ensures the assessment of accommodation need for Gypsy Traveller and Travelling Showpeople within the plan has been carried out in accordance with paragraph 61 the Framework and paragraph 7 of the 2015 PPTS. The methodology has been repeatedly found to be sound and robust, including through Local Plan Examinations in Cambridge, Cheltenham, Cotswold, East Hertfordshire, Gloucester, Maldon, Milton Keynes, Newham, South Cambridgeshire, Tewkesbury, Waverley and Winchester. The Inspector for the East Hertfordshire District Plan found the evidence base (carried out by ORS) in relation to Gypsies and Travellers to be sound in her Report issued in July 2018. She concluded: *'The need of the travelling community has been carefully and robustly assessed and locations to meet identified needs have been allocated for the plan period. Policy HOU9 sets out the need for 5 permanent pitches for Gypsies and Travellers... the approach to the provision of housing is comprehensive, positively prepared, appropriate to the needs of the area and consistent with national policy.'* ORS therefore have an excellent understanding of national policy and guidance (including the PPTS planning definition of a Traveller), recent legislation and relevant case law.
- 1.4 The GTAA (2017) includes an estimate of current and future accommodation need for those Gypsies, Travellers and Travelling Showpeople that meet the current planning definition, and for households who were not able to be interviewed who may meet the planning definition (unknown households). Whilst it is was not a formal requirement for a GTAA to include an assessment of need for households that do not meet the current planning definition, the GTAA adopted a cautious approach and carried out an assessment for completeness, and to provide information on overall levels of need that will have to be addressed through a variety of means and through separate Local Plan Policies. This approach is supported by the 2021 NPPF. Therefore, the GTAA is a robust evidence base to assess need.
- 1.5 The Council consider the baseline for the Gypsy and Traveller need in the borough to be minimal. This is supported by the bi-annual monitoring and reporting to government the Council undertakes on the number of current Gypsy and Traveller pitches and in the borough. To date there has been nominal changes in pitch/site occupancy in the borough. Therefore, the Council does not believe there to be any fundamental changes to either in the local context or national policy/guidance since the GTAA was produced, which would render the current GTAA to be out of date.

#### **2.Is the policy compliant with the Planning Policy for Traveller Sites (PPTS) and national planning policy?**

- 2.1 Yes, as Matter 5 refers to Gypsies, Travellers and Travelling Showpeople, the Council understand Question 2 relates to Policy HP11 of the Plan, which is compliant with national policy.
- 2.2 The PPTS states that Local Plans should be consistent with the policies in the Framework and that criteria-based policies should be included in Local Plans (paragraphs 8 and 11 in the PPTS). Paragraph 11 of the PPTS also states that “*criteria based policies should be fair, and should facilitate the traditional and nomadic life of travellers while respecting the interests of the settled community*”. Furthermore, paragraph 13 of the PPTS states that traveller sites should be sustainable economically, socially and environmentally ensuring that Local Plan policies meet the criteria a-h) set out in the paragraph.
- 2.3 Policy HP11 contains criteria (a -f) which meet the requirements of paragraphs 11 and 13 of the PPTS because it ensures that proposals for gypsies and traveller sites would take into account climate change, biodiversity, environmental amenity, access to services, adequate infrastructure and the need to respect the settled community whilst still enabling the traditional and nomadic life of travellers. Paragraphs 5.92 – 5.97 of the Plan provides justification of the criteria in policy HP11 demonstrating the compliance with paragraph 11 and 13 of the PPTS. As a result, the Council also considers the policy to be consistent with the wider aims and policies within the Framework in particular contributing to achieving sustainable development.
- 2.4 The Policy provides for any need not identified through the GTAA and also accommodates for need unknown at the time of the GTAA to guide speculative planning applications. The Council considers Policy HP11 therefore to be justified, effective, and consistent with national policy.

**3.The GTAA identifies that the planning status of 6 households could not be determined. It refers to national research that 10% of these are likely to meet the PPTS definition. New ORS research suggests that a figure of 30% should be used, unless the proportion of households who meet the definition in the borough is significantly higher or lower. What would be the implication of this for Fareham?**

- 3.1 As well as calculating the need from interviewed households that meet the planning definition, the needs of households where an interview was not completed (either due to refusal to be interviewed or households that were not present during the fieldwork period) were assessed as part of the GTAA (2017) where they were believed to be Gypsies and Travellers who may meet the planning definition. Whilst there is no guidance that sets out how the needs of these households should be addressed, an approach was taken that sought a best estimate of potential need from these households. This is an additional need figure over and above the need identified for interviewed households where it could be determined that they do meet the planning definition. At the time of writing this was based on the assumption that 10% of the households would meet the PPTS definition.
- 3.2 Since the GTAA was produced and the policy drafted, ORS have now completed over 5,000 interviews with Gypsies and Travellers, and it is suggested that the proportion of households that meet the planning definition is now approximately 30% and not the 10% as suggested by previous national research. Despite this, the Plan includes a criteria-based policy (HP11) which would be used to determine applications brought forward to meet the need for those households who, at the time of the GTAA, did not meet the planning definition. The GTAA identified a need of up to 2 additional pitches from households that could not be determined. (The figure of 6 is the number of household categorised as unknown but not all of these

would have need arising from them as explained in Figure 62 in Appendix 6 of the GTAA). Applying the new ORS research figure of 30% results in a need for 0.6 pitches, which rounded up results in a need for only 1 additional pitch. Therefore, the percentage of households that meet the planning definition is seen as an issue that could be overcome using the criteria in Policy HP11, should the situation arise that the need is understood from the households that were categorised as unknown in the GTAA, whether at 10% or at 30%.

#### **4.The GTAA suggests a need for 2 pitches for unknown households would be required over the plan period. How does the Plan make provision for these?**

- 4.1 Unknown households are set out in Appendix C of the GTAA. The Plan provides for the needs of unknown households through policy HP11. As set out in the Council's response to questions 2 and 3 of Matter 5, Policy HP11 accommodates for any unknowns that may arise over the Plan period.
- 4.2 The ORS methodology to address the need arising from unknown households was supported by the Planning Inspector for a Local Plan Examination for Maldon Borough Council, Essex. The Council does not feel it is appropriate to make an allocation for the potential need arising from unknown households (unknown both in terms of whether they meet the definition and if any need arises through concealed households or teenage children, for example) but makes provision for dealing with speculative planning applications should the unknown status become known. In paragraph 150 of the Inspector's report (FBC031) that was published on 29<sup>th</sup> June 2017, he concluded:
- The Council's stance is that any need arising from 'unknowns' should be a matter left to the planning application process.... While there remains a possibility that up to 10 further pitches may be needed, that cannot be said to represent identified need. It would be unreasonable to demand that the Plan provide for needs that have not been established to exist.*
- 4.3 The Plan therefore proactively makes provision for the two pitches from unknown households through Policy HP11.

#### **Site Allocation**

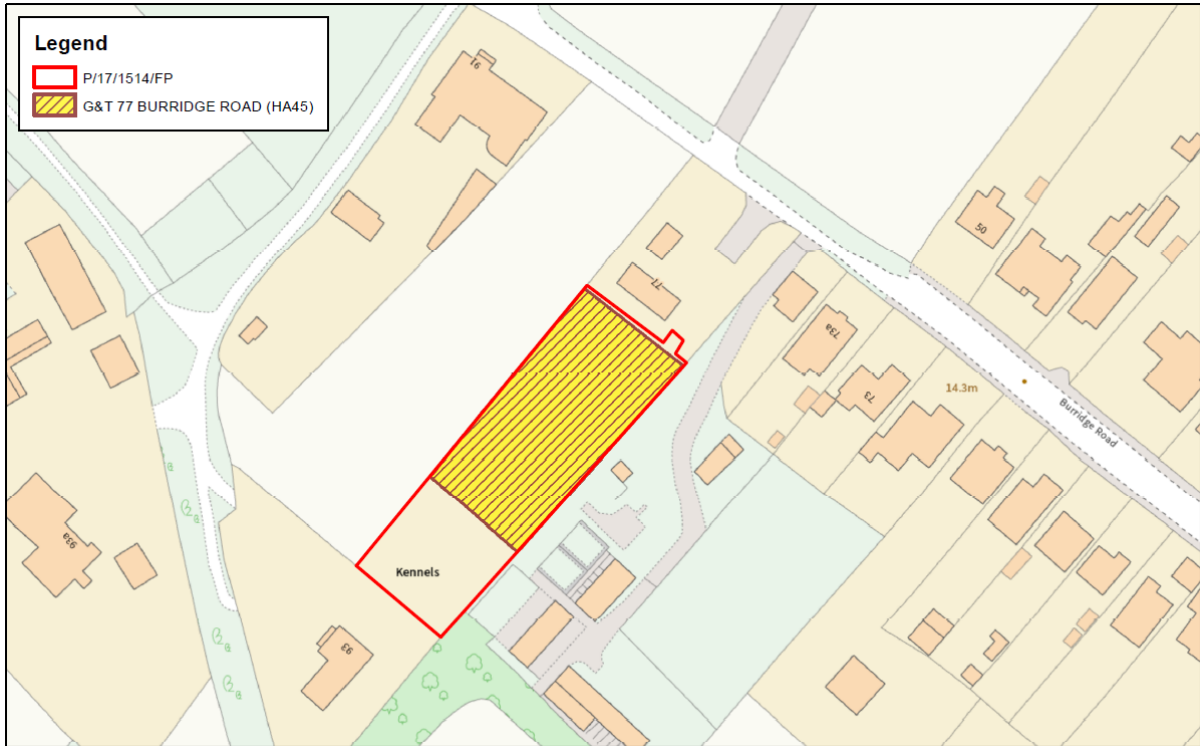
##### **Policy HA45 Rear of 77 Burrige Road**

#### **5.Is the site appropriate for the development proposed? Does the site meet the requirements set down in Policy HP11?**

- 5.1 The Council considers that the site is appropriate for the development proposed. The site has been allocated for three pitches in response to the need identified in the GTAA from one household within the borough. The Plan meets this need through housing allocation HA45 which is on land in the ownership of the household with the identified need. The site meets the requirements of the Framework and the PPTS in terms of meeting the need identified in the GTAA within the first five years of the Plan. The Council consider that Policy HA45 meets the requirements in particular of paragraph 13 of the PPTS which states policies should promote access to services (education and health), provide a settled base, consideration of local environmental quality, avoid areas of flood risk amongst other criteria.
- 5.2 An appeal decision (FBC032) in 2013 established the land immediately to the north-east of the allocation, the existing site from which need arises, as a site for 1 Gypsy pitch. Then in 2019 a further planning appeal (FBC033) for a detached 2 storey 4- bedroom dwelling on the now proposed allocation site highlighted the key issues and informed the planning

considerations for the allocation of three pitches on the site. The criteria within Policy HA45 have been devised as a consequence of the 2019 appeal and demonstrates how the main issues highlighted by that appeal can be satisfactorily addressed in the allocation of three pitches (see paragraphs 5.100 and 5.101 of the Plan).

Figure 1 – Map of 2019 Appeal site boundary (P/17/1514/FP) and HA45 boundary



5.3 Figure 2 below shows how the pitches can be accommodated on site in line with the PPTS and provides justification for the allocation site boundary.

Figure 2 – Site Development Options



5.3 Policy HP11 is a separate policy to guide speculative planning applications for gypsy and traveller sites that may come forward over the Plan period. It sets a number of tests in order to determine the suitability of the site in accordance with the Plan’s development strategy. Although these requirements are not repeated in policy HA45, it is understood that the Inspector is trying to understand whether the allocated site meets the same tests as other sites that may come forward in the plan period, and therefore the question seeks to ensure consistency of the Council’s approach. It is considered the allocation at HA45 meets the requirements of Policy HP11, as set out in the table below.

Table 1 – HA45 site requirements compared with Policy HP11 requirements

Policy HP11 requirements	How does HA45 meet the policy requirements?
a) There is an identified need and/or personal circumstances necessitate the need;	The need is identified for one household in the GTAA.
b) The site has access to shops, schools, community and health facilities by sustainable modes of transport such as public transport, on foot or by cycle; and	Paragraph 24 of the 2019 appeal decision for 77 Burrigge Road (FBC033) provides relevant justification: <i>‘Although the site lies outside of the settlement boundary, it is well related to shops, schools and health facilities. There are bus stops within 600 m walk, from which a limited number of services (some akin to community transport) operate, including one to Barton Peveril Sixth Form College. The bus service referred to by the previous Inspector, which operated at less than 2 hour intervals, no longer exists.</i>

	<i>However, it will be possible in the relatively near future to access primary schools and the local centres within a new urban extension which is presently under construction on the northern edge of Whiteley. This journey will be somewhere in the region of 1.5 km by using Whiteley Lane.'</i>
c) Proposals avoid the loss of mature trees and do not result in unacceptable impacts on biodiversity, the living conditions of residents and on the landscape character, historic environment or the rights of way network within the surrounding area; and;	Criterion b) and c) of HA45 address the impacts of the landscape character and character of the area. In addition, criterion a) of HA45 relates to impacts on biodiversity.
d) It is not located in areas at high risk of flooding; and	The site is not within flood zone 2 or 3.
e) It is not located in open countryside away from settlements; and	The Inspector that granted permission for the original gypsy pitch at 77 Burr ridge Road concluded that the site did not lie in open countryside. This is also set out in paragraph 10 of the 2019 Appeal decision (FBC033) for 77 Burr ridge Road: <i>'The Inspector who granted permission for the gypsy pitch took the view that the site did not lie in 'open' countryside on the basis that there was residential development immediately adjacent to it on three sides and the grounds of a fourth property opposite. This opinion was expressed in the context of an assessment of whether that proposal would comply with government policy on traveller sites, and not in relation to character and appearance impacts. Nevertheless, I concur with the analysis'.</i>
f) Adequate and appropriately scaled on-site facilities are provided for parking, safe and convenient access to highway, sufficient storage, play and residential amenity and appropriate essential services (water supply, power, drainage, sewage disposal and waste disposal facilities).	The allocation already has relevant essential services on site. The Council carried out some capacity work using appropriately scaled facilities (including day rooms and parking spaces) and caravans to demonstrate that the allocation could accommodate 3 pitches (see figure 2). The provision of on-site facilities can be accommodated on the site.

**6.Are the site-specific requirements stated in the policy justified and effective?  
Should reference be made to the risk of flooding?**

- 6.1 The Council consider the site-specific requirements stated in the policy are justified and effective. The policy requirements are informed by the 2019 appeal decision (FBC033) for the site and the criteria for allocating sites in the PPTS and referenced in paragraphs 5.100 and 5.101 in the Plan. There were two issues on which the appeal was dismissed which relate to the natural environment (harm to the character and appearance of the area, and biodiversity). The Appeal decision concluded that a substantial 2 storey development on the site would be visible from public vantage points behind the existing gypsy site and in the view of the inspector, this would be incongruous and would result in material harm to the

character of the area even with appropriate landscape mitigation. To address this particular issue, the Policy includes criteria b) and c) which the Council considers effective in mitigating any harm caused by the development to the character and appearance of the area, and requires single storey buildings.

- 6.2 The appeal decision concluded in relation to impacts to biodiversity, that there was insufficient mitigation provided to negate the harm to the SINC (paragraph 19 of the appeal (FBC033). The inspector in paragraph 17 of the appeal decision acknowledged that had the applicant supplied a Biodiversity Mitigation and Enhancement Strategy (BMES) for the SINC then they would have given it greater weight. At the time of the appeal, the applicant did not have full ownership of the land designated as a SINC and so was unable to extend the mitigation to cover the whole SINC area. The Council understands that position has since changed, and the site owner has complete ownership of the land designated as a SINC.
- 6.3 The SINC in question was surveyed in May 2020 (FBC034) in the examination library). The survey found that likely changes in land management, particularly on the south-eastern field of the SINC (where the Policy HA45 sits) had led to a loss of a significant level of its wildlife interest. However, it was noted that in certain areas, there was a similar composition of species to the other more wildlife rich parts of the SINC (particularly closer to the rear boundary in the south-eastern field as shown on the survey map in FBC034) suggesting there was still some value present justifying the designation. The Council used the findings of the SINC survey to determine the location and extent of the allocation, avoiding the areas of greater wildlife value (see figure 2).
- 6.4 Furthermore, in considering the conclusions of the appeal, policy criterion a) was included within Policy HA45 requiring the implementation of a Biodiversity Mitigation and Enhancement Plan to ensure the remainder of the SINC habitat is protected and enhanced in line with Policy NE1. In addition to this, Natural England have had opportunities to comment on the policy and have raised no concerns with the Council's approach. A signed a Statement of Common Ground with Natural England in relation to the Plan (SCG006) reflects this and therefore it is considered the allocation addresses this issue raised at the appeal.
- 6.5 The Council does not consider it necessary for reference to be made to the risk of flooding within the policy. As evidenced by the Strategic Flood Risk Assessment accompanying the Plan (document CC003 in the Examination Library), the allocation is not within flood zone 2 or 3 and not at future risk of flooding as a result of climate change.
- 6.6 The Council therefore consider that the site specific requirements are justified on this allocation.