

The Inspector requested clarity from Murdoch Planning as to the relevance of the Appeal Decision submitted – Murdoch Planning’s response is as follows:

In my earlier representations I made reference to the ways in which the ORS GTAA for Hart – and hence the emerging policy upon which it is based – was not robust thereby rendering the proposed policy unsound. As part of those representations I drew attention to the issue of how ORS in this (and in all other GTAA’s pre-2017) assume that only 10% of the ‘unknowns’ are Travellers as this based on false unsubstantiated reasoning. In the Aylesbury Decision Letter Inspector Dakyne accepted those criticisms:

29. The report identified a current and future need for 8 pitches for the period 2016-2033 for those who met the planning definition (‘the knowns’). However, it was not possible to determine the traveller status of a large number of households (87) because either they refused to be interviewed or were not on site at the time of the researchers’ visit. **ORS assumed that 10% of those not interviewed (‘the unknowns’) met the planning definition based on national data.**

30. However, for several reasons the identified needs for those who meet the planning definition appears to be an underestimate. A number of sites have been granted permanent planning permission since the base date of the GTAA providing some 28 pitches⁵. The assumption is that all the site occupants in these cases met the planning definition. An appeal decision⁶ made before the publication of the GTAA determined that the occupiers of 3 pitches at Ickford met the planning definition but despite this evidence the GTAA discounted them in its assessment because at the time of the researchers’ visit no contact was possible. Therefore, it is reasonable to assume that of the sites which have obtained planning permission from 2016 onwards 100% of occupants have met the planning definition.

31. In the case of the appeal site the GTAA indicates that of 13 pitches assumed to be occupied only 5 interviews were conducted. Contact was not possible with 8 households. This information led to the conclusion that none of the households occupying the site in 2016 met the planning definition. Whilst this appeal decision does not seek to determine the gypsy status of the occupants of Oakview Park, from what I have heard and read several of the households would appear to fall within the planning definition and certainly significantly more than the 10% assumed by ORS.

32. ORS have conducted many GTAA’s and their findings have been accepted in Local Plan Examinations and appeal decisions. The appellants have not put forward an alternative analysis. That said **I am mindful of some of the other criticisms of the GTAA by the appellants in this case and that of ORS in other appeals, including a failure to explore further during interviews some of the answers about working and travelling habits. These criticisms tend to reinforce**

my view that the findings of need within the GTAA are an underestimate. “

Since the Hart GTAA ORS have revised their 10% figure as it has been subject to repeated criticism by myself and others. In the Blaby EIP they changed the figure to 25% - which they also did in Winchester at the EIP in September 2018.

This does not, however address the issue of the fundamental misapplication of the law in terms of *Maidstone v Dunn*. Since the Hart GTAA the site record form has changed so that it now probes further the reasons for travel in particular those who travel to the traditional Gypsy horse fairs (including as Mr and Mrs Collins – referred to at paragraph 55 of my representations - who have instructed me in this matter) but who ORS would consider not to be Travellers. Mr and Mrs Collins have a live planning application in with Hart DC for a Traveller pitch. As you will see from the attached Design and Access Statement this was a re-submissions following the refusal of 16/02919/FUL and therefore it has been plain to the LPA that Mr and Mrs Collins’ family require a Traveller pitch since at least 2016 yet their needs are not represented in the emerging Plan. In the DAS I referred to need as follows: :

“The Development Plan policy applicable to this proposal is RU38 with which this proposal complies:

RUR 38 Provision of Gypsy Sites

FURTHER SITES FOR TRANSIT AND PERMANENT SITES FOR GYPSY FAMILIES MAY EXCEPTIONALLY BE PERMITTED WHERE THE LOCAL PLANNING AUTHORITY IS SATISFIED THAT THERE IS A GENUINE NEED FOR THE SCHEME AND THEY MEET THE FOLLOWING CRITERIA:...

As to there being a “genuine need” it was established in the Turner Appeal that a general local need exists. Moreover, the 2013 Gypsy and Traveller Accommodation Assessment confirmed that “there is a need for an additional 24 permanent pitches in the period 2012-2017.” (7.1.1)

In the Officer’s Report to 14/01653/FUL in April 2016 it stated:

“Since the GTAA was produced planning permissions have been granted for a further 3 gypsy or traveller pitches, one at Greenacres Stables, Taplins Farm Lane, Winchfield (13/01507/FUL, approved 10 October 2013) and two at Oaktree Paddock, Potbridge Road, Odiham (12/00731/FUL, allowed on appeal 14 January 2014).

The Odiham case refers, of course, to the Turner Appeal. As only 3 pitches have been provided, there is a back-log shortfall of 21 pitches. Clearly a “genuine need” exists.”

I provided a copy of the Odiham Appeal DL with my original submissions.

In terms of Gypsies and Travellers who ORS considers not to be Annex 1 Travellers, I note that the LPA is now proposing to meet the need for those additional 10 pitches by applying H5 to them which is welcomed. However criterion B will need to be amended as currently it only refers to Annex 1 Travellers so would frustrate the intentions of MOD 39a).

Many thanks

Angus

Dr Angus Murdoch BA, MA, MSc, Phd MRTPI
Director, Murdoch Planning Ltd

DESIGN AND ACCESS STATEMENT IN RELATION TO

LAND AT

HARTFORDBRIGE

APPLICANT – MR. COLLINS

PROPOSAL: THE USE OF LAND AS A RESIDENTIAL

CARAVAN SITE CONSISTING OF ONE MOBILE

HOME, ONE TOURING CARAVAN AND ONE UTILITY

DAYROOM

AGENT – DR. ANGUS MURDOCH MRTPI

MURDOCH PLANNING LIMITED

INTRODUCTION

This application has been re-designed so as to address the reasons for refusing to grant 16/02919/FUL: the site has been relocated so that the residential use is situated entirely in Flood Zone 1 and is supported by a Heritage Assessment from Heritage Vision which establishes that no harm to the heritage assets of either the Conservation Area or the Listed Building arises. That being so, this amended proposal complies with the Development Plan and should be approved,

THE LAW AND POLICY

By Section 70 (2) of the Town & Country Planning Act 1990 when dealing with an application for planning permission regard has to be made to the provisions of the Development Plan, so far as material to the application and to any other material considerations. By Section 38(6) of the Planning Compulsory Purchase Act 2004 Planning Applications should be made in accordance with that Development Plan unless material considerations indicate otherwise.

The Development Plan policy applicable to this proposal is RU38 with which this proposal complies:

RUR 38 Provision of Gypsy Sites

FURTHER SITES FOR TRANSIT AND PERMANENT SITES FOR GYPSY FAMILIES MAY EXCEPTIONALLY BE PERMITTED WHERE THE LOCAL PLANNING AUTHORITY IS SATISFIED THAT THERE IS A GENUINE NEED FOR THE SCHEME AND THEY MEET THE FOLLOWING CRITERIA:

In the Tuner Appeal (Appendix 1) in which Murdoch Planning Ltd were instructed it was agreed that RUR38 is out of date with the National Planning Policy Framework and Planning Policy for Travellers Sites. It follows that conflict with any part of this policy should be afforded little if any weight.

As to there being a *“genuine need”* it was established in the Turner Appeal that a general local need exists. Moreover, the 2013 Gypsy and Traveller Accommodation Assessment confirmed that *“there is a need for an additional 24 permanent pitches in the period 2012-2017.”* (7.1.1)

In the Officer’s Report to 14/01653/FUL in April 2016 it stated:

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two at Oaktree Paddock, Potbridge Road, Odiham (12/00731/FUL, allowed on appeal 14 January 2014).

The Odiham case refers, of course, to the Turner Appeal. As only 3 pitches have been provided, there is a back-log shortfall of 21 pitches. Clearly a “*genuine need*” exists.

(i) There is no unacceptable impact on designated areas of landscape and / or nature conservation value;

The application is supported by a Landscape Mitigation and Enhancement Scheme which establishes that no “*unacceptable impact*” caused by the scheme.

(ii) The purposes of the Strategic or Local Gaps are not prejudiced;

The site does not prejudice the purposes of either Gap given that it does not fall in such a Gap

(iii) There is a satisfactory means of access and adequate parking, and development does not generate traffic of an amount or type inappropriate for roads in the area;

As a single pitch residential caravan site with no business use proposed that utilises an existing access, this criterion is met.

(iv) There is no unacceptable impact on neighbouring land uses;

The site has been designed to avoid such impacts.

(v) They can be provided with essential services (mains drinking water, and a refuse collection point);

These services are existing.

(vi) They include where necessary, a landscape scheme;

This has been provided.

(vii) Where an element of business activity is provided, it does not adversely affect neighbouring land uses or generate levels and types of traffic inappropriate to local roads;

No business use is proposed.

(viii) They have reasonable access to schools, medical services, shops and other community facilities.

The site is within a reasonable distance of services and facilities as accepted in the previous Officer's Report.

From the foregoing it is clear that the site complies with the specific Development Plan policy for this type of proposal and pursuant to s38 (6) of the Planning Act should be approved.

This DAS now goes on to consider the differences between this application and that refused in relation to 16/02919/FUL by reference to the Officer's Report in that matter. Unfortunately, there are neither page nor paragraph numbers in that Report.

It is clear from page 3 that the application site is "*adjacent to the settlement boundary of Hartfordbridge*" whilst on page 6 it confirms that it is "*near to the settlement boundary of Hartney Whitney and as such would be within a reasonable distance to access the local infrastructure and amenities.*" Therefore the proposal complies in full with criterion viii) of RU38.

The issue the visual impact of the proposal has been resolved by the re-positioning of the residential pitch as demonstrated in the Landscape Design Statement which establishes there is no "*unacceptable impact on designated areas of landscape*" – in fact this landscape is not designated in any event as required by RUR38 (pp6 -7 of the Officer's Report).

All of the heritage impact issues raised on p7 have been resolved by the robust and comprehensive evidence submitted in the Heritage Assessment provided by Heritage Vision which establishes that the proposal would cause no harm to the heritage assets of either the setting of the Conservation Area or the Listed Building.

The Officer's Report accepts that the following parts of RUR38 can be met by condition;

Criterion iii) re access (the access is pre-existing and serves both equestrian stables and the unmentioned 'elephant in the room' of which the Officer's Report was silent: the electricity pylon).

Criterion v) re the provision of essential services.

As to criterion iv) the Officer's Report falls into error on p8 where it states that *"residential development within the open countryside is by definition unacceptable and would therefore negatively impact on neighbouring land uses."* Both RUR38 and Planning Policy for Traveller Sites accept that Traveller sites are acceptable in the countryside subject to scale. Criterion iv) actually requires there to be *"no unacceptable impact on neighbouring land uses"* which clearly accepts that **some** impact is both inevitable and acceptable. In this revised scheme the relocation of the pitch and the sensitive landscaping proposals means that any impact is minimal and falls far short of being *"unacceptable."*

So far as flood risk is concerned, the residential element of the proposal has been relocated so that it is entirely within Flood Zone 1 and therefore not at risk of flooding as demonstrated in the revised Flood Risk Assessment. Therefore, none of the issues raised on pp8-9 of the Officer's Report arise in this revised application.

Finally, the issues of the SPA can be met by the provision of appropriate contributions which the Applicant is agreeable. Thus, none of the issues raised on pp 9-10 of the Report fall to be considered.

Given the foregoing, all of RUR38 and PPTS are met and the proposal should be permitted on a non-personal general basis thereby obviating consideration of the issues on pp10-11 of the Report, Should the LPA conclude that there is a conflict with the Development Plan then the Applicant would be agreeable to

providing personal circumstances information in the context of the second limb of s38(6).

In addition, pursuant to paragraph 14 of the Framework, weight should be given in favour of allowing this application by virtue of a) the failure of the Development Plan to have adopted allocation policies relevant to this area of provision and b) the compliance with CP 7 and RUR38. Moreover, there is a continuing need for further sites for Gypsies and Travellers in the area for 21 further permanent residential pitches for Gypsies and Travellers. Planning permission should therefore be granted pursuant to s38(6) of the Planning and Compulsory Purchase Act 2004.

DESIGN PRINCIPLES AND CONCEPTS

Amount

The application concerns a single caravan pitch for Gypsies and Travellers together with the creation of a utility dayroom.

Layout

Layout of the proposed change of use but has been designed to minimise the visual impact by the siting of the caravan pitches sensitively. There is already an adequate level of screening afforded to the site and further landscaping measures can be illustrated to the Local Planning Authority's satisfaction.

Scale

The proposal is for a single pitch with one mobile home and a utility dayroom.

Landscaping

The Applicant instructed a Landscape Architect to directly address the issue of the visual impact of the site.

Access

Access to the site is via an existing access which affords adequate visibility for the proposed use.

Car parking

There will parking provision for a total of 2 vehicles on the site.

CONCLUSION

As the application complies with the Framework, PPTS and the policies in the Development Plan so far as they are relevant and up-to-date, then the application should be granted on the facts of this case.

Dr. Angus Murdoch MRTPI

Murdoch Planning

March 2018