

Matter 25: New land proposed for allocation – Gypsy and Traveller site at Danesbury Park Road

1. Following the Matter 25 hearing session on 3 December 2020, the Inspector has requested additional information on the assessment of needs for Gypsy and Traveller provision, as presently set out in ED60 and why the Council considers that *exceptional circumstances* exist to support both proposed Gypsy and Traveller allocations, site CD4 at Pulmer Water and site CD6 at Danesbury Park Road.
2. Upon review of the evidence in light of the Matter 25 hearing, the Council now does not consider that *exceptional circumstances* exist to justify the proposed CD4 allocation at Pulmer Water. For reasons set out below it now considers that the existing permissions provide sufficient pitches and flexibility to accommodate current and future demand. The area covered by these implemented permissions does not form part of the proposed allocation CD4 and any issues of control over this area are a matter for the Council's planning control function and not the Local Plan.
3. In contrast to the position at Pulmer Water, the Council remains of the view that the proposed allocation site CD6 Danesbury Park Road is supported by robust evidence of need and is further justified having regard to the personal circumstances of the inhabitants thereby creating the necessary *exceptional circumstances* to support a limited insetting of the site from the wider Green Belt.

Site CD4, land at Pulmer Water, St Albans Road

4. As previously set out to the examination, this site has a complex planning history (ED149, Appendix 2) involving a number of overlapping permissions on parts of the site. In its earlier analysis, the Council has also made reference to Areas A to F (HOU11, pp.4-5) and this is the notation that was used by ORS in gathering their site observations to inform the 2017 update to the needs assessment (ED60). Areas A to F are shown below in the map reproduced from HOU11. A table showing the relationship between Areas A to F, the permissions and the analysis in the Gypsy and Traveller Accommodation Assessment Update (GTAA) (particularly Figure 6, p.25) is contained in Appendix 1.



5. There are extant permissions for 12 pitches on the site. These pitches lie within areas A, C and E. None of these areas are proposed for allocation in the Local Plan. Their use and regulation are matters for the Council's planning control functions and not the Local Plan examination.
6. Area F corresponds to the proposed allocation CD4 contained in the submitted Plan (LP1, p.154) and shown on the Policies Map. As previously set out, this area benefited from a temporary permission on appeal for six pitches in 2012 which expired in 2017. The GTAA states that 6 pitches were needed here to 'make good' the expiration of the temporary permission (ED60, Para 6.18). However, there is no particular record in the Council's evidence of occupation of this area by households meeting the 2015 PPTS definition of Gypsies and Travellers.
7. The Council's 2015 analysis in HOU11 states

This is the area granted temporary permission on appeal for 6 pitches in 2012. It wasn't clear who was living on this area, although the only known Traveller had moved off the site to live in Hemel Hempstead

8. Figure 6 of the GTAA concurs (ED60, p.25). This is the area identified under the fourth sub-heading of "unauthorised pitches" which identifies the presence of six pitches but that no interviews were completed as they were occupied by 6x non-travellers. Following the hearing session, and in light of the request by the Inspector for more information ORS contacted one of the family members resident at Pulmer Water (December 2020) who reconfirmed that 'Area F' is not used by Gypsies and Travellers.
9. At the point of assessment ORS appear to have been told, and it was therefore reasonable to assume, that these pitches were being held 'in abeyance' for other Gypsy and Traveller households not present at the time of the GTAA. However, absent any evidence of occupation of Area F by households meeting the PPTS definition over what is now a five-year period, it is evident there cannot be *exceptional circumstances* supporting the release of Site CD4 from the Green Belt. The Council therefore considers this element of the identified need should now be discounted from further consideration.
10. The analysis presented to the examination already shows there are two vacant pitches within 'Area A' benefitting from planning permission for Gypsy and Traveller use that can accommodate the future natural growth forecast from this site (ED60, Figure 6 / p.25 & paragraph 6.18 / p.29; supporting the position identified two years earlier in HOU11, p.4).
11. There are also two further Gypsy and Traveller households currently accommodated within the adjoining Caravan Park that benefits from a Lawful Development Certificate. This area provides the opportunity to accommodate any further, currently anticipated need, that might arise from new household formation from those families presently resident.

Site CD6, land at Danesbury Park Road

12. In contrast to the situation at Pulmer Water, and consequential to the Council's proposed approach to Site CD4, there remains a demonstrable current and future need generated by the residents of the Danesbury Park Road site. This consists of a current need for two pitches and a future need for an additional two pitches (NDHC Matter 12 statement, p.5, Table 1). This is derived directly from the needs assessment:

Analysis of the housing interviews completed at the [then] unauthorised site indicated that there is a current need for the 2 pitches that are unauthorised, and a future need for 2 additional pitches as a result of new household formation (based on the demographics of the pitch residents) over the 15 year GTAA period to 2032.

13. It has been established in evidence to the examination that the family have been and remain resident upon the site as of November 2020 notwithstanding any assertions to the contrary. Interviews were completed with family members of the travelling community that reside on the site by ORS in 2017 and those family members have been confirmed as remaining on it. The need has been further demonstrated through the planning history of the site and the granting of temporary permission in August 2020. The need for two current and two future pitches arising from this site is robustly evidenced and up-to-date.

14. The identification of this site through the Plan is consistent with the site selection approach identified in the Council's original Matter 12 statement (Paragraphs 27 to 29 and Appendix 1). The Council has been quite clear this method involves an element of pragmatism which recognises that:

...a site owned by a travelling family will always be preferable to public or third party ownership and that to seek an alternative site...would require the purchase of another site when the family are already suitably accommodated. The site selection process therefore focussed primarily on the sustainability of the site to meet the aims of the plan and the suitability of the site to meet the needs of the family to the end of the plan period. (NHDC Matter 12 statement, p.6, paragraph 24)

15. At the time of the original hearing the Council proposed that the same approach and methodology be used for the families at Danesbury Park Road and that, if the site were found to be suitable, it should be promoted as an allocation through a main modification. At the Inspector's request, the additional work to support this position, including a sustainability appraisal of the site, was completed through the Council's Matter 12 'homework' (ED149) and relevant modifications consulted upon (MM139 and MM385). The proposed modifications place the allocation within Policy HS7 which sets out a number of detailed Development Management criteria to be considered when determining whether to grant permission for accommodation for Gypsies and Travellers.

16. The Council's Matter 12 'homework' demonstrates that both the existing and future need arising from this site can be accommodated within the allocation (ED149, pp.68-69 and Appendix 1 / p.75) and identifies the *exceptional circumstances* as being:

- The identified need;
- The lack of a five-year supply for the travelling community;
- The personal circumstances of the families;
- The protection of the characteristics of the Gypsy way of life; and
- The best interests of the children (ED149, p.63)

17. These *exceptional circumstances* coincide with the matters considered by the Council in its Development Management function as providing *very special circumstances*:

- The identified need for two pitches and two future pitches arising from this site remains a robust and up-to-date analysis following reconfirmation by the Council's expert witness that the site remains occupied by the families as at November 2020;
- A five-year supply to meet the immediate need for two pitches arising from this site only exists in temporary form by virtue of the subsequent granting of planning permission in August 2020 for a period of three-years pending the consideration of this proposed allocation through the Local Plan examination;
- The personal circumstances including but not limited to provision of a settled base to enable children to benefit from local education and healthcare, local employment and that the families have no alternative housing accommodation has been

established through the consideration of the planning applications for this site and the granting of temporary permission in August 2020;

- Making plan-led provision to meet identified needs protects the characteristics of the Gypsy way of life; and
- The best interests of the children living on the site would not be well served by failing to allocate this site, providing a plan-led policy context for any future application.

18. The Council's Matter 25 statement reinforces the availability and deliverability of the site. It identifies relevant planning constraints consistent with the approach taken to the assessment of mainstream housing sites considered through the Strategic Housing Land Availability Assessment.
19. The recent granting of a temporary planning permission for the site has demonstrably proven that Development Management criteria of Policy HS7, particularly in relation to the issues of highways, contamination and noise raised by Codicote Parish Council in their hearing statement can be and have been satisfactorily addressed.
20. The Council has already resolved, in its Development Management function and based upon the site's present Green Belt status, that it would not be able to sustain a refusal of planning permission for the current occupants at appeal (NHDC Matter 25 statement, p.4, paragraph 19) and has granted temporary planning permission under the more stringent test of '*very special circumstances*'.
21. Notwithstanding any findings the Inspector may make in relation to Site CD4 and the site at Pulmer Water, there is no reasonable prospect that the needs of the Danesbury Park residents might alternately be met upon that site or in another location. The needs of the family and their children requires a security of tenancy that cannot be achieved by renting pitches on a site owned by another party. The need and justification for this site should therefore be considered on its own merits.

Relationship between permissions, areas of site and site observations in HOU11 and ED60 in relation to Pulmer Water

	Permission(s) (ED149, Appendix 2)	Assessment in HOU11	Assessment in ED60
Area A	Within area covered by 1983 and 1986 applications for a total of six pitches with occupation linked to definition of Gypsies in 1968 Caravan Sites Act	3 pitches, 1 in use, 2 vacant (HOU11, paragraph 12)	Site notes record 3 pitches, 1 in use, 2 vacant consistent with HOU11. These are the “2 x vacant, 1 x no contact possible” in Figure 6
Area B	1990 application for ablution block / family room with subsequent permission in 1995 for use as a self-contained dwelling subject to it only being occupied by Gypsies.	Occupied by Traveller household but a permanent structure and not counted as a pitch (HOU11, paragraph 13)	Site notes record two residents who no longer travel living in a permanent structure. Not recorded in Figure 6 as not a pitch. Notes also record two households in adjoining caravan site as per Figs. 5 & 6.
Area C	As Area A	3 pitches, all in use (HOU11, paragraph 14)	Site notes record three pitches containing 4 occupied park homes by non-travellers. This is 3 of the “non-travellers” pitches recorded in Figure 6.
Area D	Overlapped by the 1983, 1986, 2011 and 2017 permissions. However, occupied by permanent structure now exempt from enforcement action.	Occupied by two Travellers but a permanent structure so not counted as a pitch (HOU11, paragraph 15)	Sites notes record two residents living in a permanent structure. Not recorded in Figure 6 as not a pitch.
Area E	Within area covered by 2011 application for six pitches. Variation of condition granted in 2017 allowed for a total of seven caravans and imposed occupation condition linked to 2015 PPTS definition of Gypsies and Travellers	Six pitches in use but capacity for seven in total as one pitch was not in use (HOU11, paragraph 16) <i>n.b. reference to a 7th pitch appears erroneous relative to the permission and may refer to caravans</i>	Site notes record 6 pitches containing 7 occupied park homes by non-travellers. This is the remaining 6 “non-travellers” pitches recorded in Figure 6 which (together with Area C) provides a total of 9.
Area F	Five-year temporary permission for six pitches following enforcement appeal expired March 2017	Only known Traveller had moved off site. Site area suggested capacity for more than 6 pitches (HOU11, paragraph 17)	Eight occupied pitches, none occupied by travellers. This is recorded as six unauthorised pitches in ED60, Figure 6 corresponding with the (then) recently expired temporary permission
Total / conclusions	At December 2020 there are permissions for 12 pitches, half of which are conditioned to meet the 2015 PPTS definition of Gypsies and Travellers	Total of 18 pitches at time of writing (Areas A, C, E and F). Permission for Area F subsequently lapsed. Observed twelve pitches on areas A, C and E correspond to extant permissions.	Total of 12 pitches for Pulmore [<i>sic</i>] Water / Wexford Park (Areas A, C and E) and 6 unauthorised pitches (Area F) as shown in Figure 6 and aerial photo on p.23 corresponding to analysis in HOU11 and ED149.

