

## **Vale of Glamorgan Local Development Plan Examination Hearing Statement - Session 16: Gypsy & Travellers**

**Representation No. 2455**

**R.E.Phillips & Partners (for Sully Development Company)**

**Land at Hayes Road, Sully MG5**

February 2016

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**Policy MG5**

## **1. Introduction**

1.1. This statement is provided on behalf of the Sully Development Company in respect of the above Vale of Glamorgan LDP Session 16. It initially summarises our Deposit LDP representation, for the convenience of the hearing, before responding to the relevant points of the proposed hearing agenda.

1.2. The following is a summary of the main points raised in our Deposit representation, all of which still remain relevant to the current considerations. It covers the following key subjects:

- **The site analysis process;**
- **Robustness of the evidence;**
- **Deliverability; and,**
- **Suitability of site for the allocated use.**

Following this summary we respond to the related Inspector's questions and apply the tests of soundness.

## **2. Site Analysis Process**

2.1. The previous version of the LDP (abandoned due to various issues including infrastructure and housing distribution) allocated land at Llangan as the required site to accommodate the predicted demand for permanent and transit pitches for the plan period to 2026. That proposed allocation was based on the assessment of Gypsy and Traveller accommodation in 2008<sup>1</sup> and 2011<sup>2</sup>. The 2011 evidence found the Llangan site to be the most suitable in order to meet the obligations upon the Council to provide sufficient space as required under the Housing Act.

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<sup>1</sup> Cardiff and Vale of Glamorgan Survey and Assessment of Gypsy and Traveller accommodation, 2008

<sup>2</sup> Gypsy and Traveller Site Assessment Background Paper, 2011

- 2.2. The 2011 evidence base found that the land at Hayes Road was **unsuitable**. At the time of these assessments the land was being used as a Civic Amenity Site, although it was anticipated that this use would terminate in due course. It was found to be unsuitable due to reasons of:
- local deficit of public open space;
  - need for 24 hour access to the 'all tides' slipway;
  - long term intention / obligation of the Council to return the land to recreation space following cessation of the civic amenity site;
  - it provided car parking adjacent to, and access to, the PRow network; and,
  - use of the Civic amenity site for this purpose would have a detrimental effect on the open space / car park.
- 2.3. The Deposit LDP now instead proposes to allocate the Hayes Road site as the county Gypsy and Traveller accommodation site. The formal evidence therefore now comprises the two 2013 updated reports <sup>3</sup> which make reference to the 2008 evidence. No reference is now made to the 2011 evidence.
- 2.4. This updated report, however, concludes that the Hayes Road site is now instead considered to be acceptable despite:
- consistent Council Officer consultation responses (objection) in line with the 2011 findings concerning open space, restoration of the site, and public rights of way;
  - land being subject to flood risk being in flood zone C2, i.e. no defences in place, which is specifically identified in Circular 30/2007 as therefore being unsuitable for this use;
  - A local informal open space deficiency which would be exacerbated by this allocation;
  - A reduction in the level of demand for caravan pitches since the 2011 assessment; and,
  - No change in the suitability of the previously preferred site at Llangan.
- 2.5. It is not demonstrated, in the evidence base, why the Llangan site is no longer the preferred site, when, in fact, the assessment confirms that there could be potential to increase the capacity of that site (over the available 0.76ha) should this become necessary (p.A-50). The suitability of the originally proposed (2011) site at Llangan to accommodate the predicted needs remains unchanged.
- 2.6. It is likely to be contended by the Authority that, since the previous version of the LDP was abandoned, that evidence base is of no relevance now. Whilst that could be a formal

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<sup>3</sup> Gypsy and Traveller Site Assessment Background Paper, and Gypsy and Traveller accommodation Needs' Background Paper (both 2013)

position, the previous LDP, was not however abandoned due to reasons concerning this specific component of the evidence base, and there is no reason to conclude that the findings of that assessment should not remain applicable except where circumstances of demand or conditions / availability of sites have changed.

- 2.7. The only significant change which has occurred with the Hayes Road site, since it was previously found not to be acceptable, is that the civic amenity facility has ceased to be operational, and the site has become illegally occupied. The Authority has not deemed it appropriate to pursue legal action and planning permission has not been sought for the unauthorised use.

### **3. Robustness of the evidence**

- 3.1. The internal Council department consultations as reported in the Site Assessment were inconsistent between the various sites assessed, insofar as no responses were received on some sites, whereas they were sought and received, on others. For example, the Legal Department was not consulted on the Hayes Road site, whereas it was consulted on other sites. Importantly in this respect, no comment is provided by Estates in terms of the loss of the open space at the Hayes Road site, whereas on site HD24 Land East of Llangan, it is commented by Estates that implications relating to the loss of public open space may need to be considered.
- 3.2. The requirements in terms of the disposal of publicly-owned land and existing open space (S.123 Local Government Act 1972), however, do not appear to have been investigated in terms of the Hayes Road site, as this is not reported in the Site Assessment.
- 3.3. This site assessment also does not sufficiently consider the potential impact of the proposed allocated use on existing surrounding uses, nor allocated uses. It is our position that this use would have a negative impact on the allocated land to the west of, and contiguous with, the proposed allocated site. It would consequently impact negatively on the marketability and viability of implementing the development. It is also considered to be in conflict with the continued use of the adjacent autistic specialist college to the east (as detailed in other submitted representations).
- 3.4. The recommendations of the report include for the Council to undertake the necessary legal and regulatory procedures to formalise the Hayes Road site to accommodate the identified need, and to seek funding to upgrade and expand the site. This is in parallel with it being included in the Deposit LDP. It is again difficult not to conclude from this that the Authority regards the site allocation as a foregone conclusion.

#### **4. Deliverability**

- 4.1. The Site Assessment is also clear that all sites, except Llangan, would require substantial levels of capital investment, but that the resource implications of the deliverability of a site have not formed a significant consideration within the assessment (par.8.2). The public costs to deliver the Hayes Road site are unknown. It is questioned how a site can be delivered without calculation of costs or confirmation of available funding.

#### **5. Suitability of the site for the allocated use**

- 5.1. The total area of the site that is proposed to be allocated is 0.85ha comprising the former civic amenity site and the open space land. The Site Assessment calculates that, for the predicted number of pitch spaces (18), the site area would need to be between 0.72ha and 0.81ha. The total amount of land proposed to be developed to meet this assessed need meets this requirement, however, the Needs Assessment states that there are other households wishing to locate there, and that around 10 further households (i.e. an increase in greater than 50% over the current number) currently locate there in the winter (par.6.5).
- 5.2. The national policy context explicitly states that highly vulnerable development, such as caravan sites, should not be located in TAN flood risk zone C2. According to TAN15 Development Advice Maps, approximately one seventh of the 0.84 ha site is within zone C2. This raises the question as to the suitability of part of the site for this highly vulnerable use and consequently how this affects the amount of developable area remaining for the number of pitches proposed.
- 5.3. It is acknowledged that the 2008 guidance<sup>4</sup> that was used by the Council to calculate the space requirements has now been superseded by new 2015 guidance<sup>5</sup>. The amenity block floor space requirements set out in the new guidance increase the minimum floor space, to be located on each plot, from 7.5m<sup>2</sup> to 23m<sup>2</sup>. It is questioned, therefore, whether this significant increase in the minimum amenity block floor area is accommodated within the pitch size calculations used by the Council in the 2013 Site Assessment Paper.
- 5.4. This leads to the conclusion that: this site is not of sufficient size to meet the likely requirement once the pitch spaces are formalised, notwithstanding, the formal requirement conclusion of the needs assessment of 18 households; and that there is not sufficient

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<sup>4</sup> Good Practice Guide in Designing Gypsy Traveller Sites in Wales 2008

<sup>5</sup> Designing Gypsy and Traveller Sites Guidance May 2015



additional space within the land parcel (outside the allocated area) to meet this additional demand should it be required.

- 5.5. The assessment concludes that the site's location is acceptable to the existing residents as it has remained occupied for approximately 2 years (par.9.3). This single measure of suitability fails to acknowledge the broad range of elements which amount to a site being acceptable.

## **6. Response to the Inspector's Agenda Questions**

- 6.1. This section summarises how this statement has responded to a number of relevant agenda questions posed by the inspector.

### **6.2. Agenda question 4.a) Has the allocation been subject to a clear and robust site assessment process?**

- 6.2.1 There is a lack of clarity in the site assessment process in terms of the use of the different evidence bases.
- 6.2.2 The previous version of the LDP (abandoned due to various issues including infrastructure and housing distribution) allocated land at Llangan as the required site to accommodate the predicted demand for permanent and transit pitches for the plan period to 2026. That proposed allocation was based on the assessment of Gypsy and Traveller accommodation in 2008 and 2011. The 2011 evidence found the Llangan site to be the most suitable in order to meet the obligations upon the Council to provide sufficient space as required under the Housing Act.
- 6.2.3 The 2011 evidence base found that the land at Hayes Road was **unsuitable**. At the time of these assessments the land was being used as a Civic Amenity Site, although it was anticipated that this use would terminate in due course.
- 6.2.4 The Deposit LDP now instead proposes to allocate the Hayes Road site as the county Gypsy and Traveller accommodation site. The formal evidence therefore now comprises the two 2013 updated reports which make reference to the 2008 evidence. No reference is now made to the 2011 evidence.
- 6.2.5 It is not demonstrated, in the evidence base, why the Llangan site is no longer the preferable site, when, in fact, the assessment confirms that there could be potential to increase the capacity of that site (over the available 0.76ha) should this become necessary (p.A-50). The suitability of the originally proposed (2011) site at Llangan to accommodate the predicted needs remains unchanged.

6.2.6 In addition, it is difficult to conclude that all relevant matters were adequately considered in order to make the assessment fully robust. The internal Council department consultations were inconsistent between the various sites assessed insofar as no responses were received on some sites whereas they were sought, and received, on others.

**6.3. Agenda question 4.b) Is Policy MG5 sufficiently clear regarding the number of pitches being proposed and whether or not it would satisfy the identified need?**

6.3.1 The number of pitches deemed necessary, as determined by the Needs Assessment, is 18 and as such it is concluded that the total amount of land proposed to be developed meets this requirement. However, the Needs Assessment states that there were 17 households on site at the point of study, that there are other households wishing to locate there, and that around 10 further households (i.e. an increase in greater than 50% over the current number) currently locate there in the winter (par.6.5). This implies that an allocation of 18 pitches would be insufficient to satisfy identified need.

**6.4. Agenda question 4.c) Is the allocation justified in light of national policy relating to flood risk (PPW, TAN15 and para 19 of WG Circular 30/2007)?**

6.4.1 Planning Policy Wales Chapter 13 Minimising and Managing Environmental Risks and Pollution states that development proposals in areas defined as being of high flood hazard should only be considered where new development can be justified in that location, even though it is likely to be at risk from flooding. Given the above review of the site assessment evidence used to justify allocating the Gypsy and Traveller sites, we do not consider that this site allocation of a vulnerable use in an area of flood risk is justified.

6.4.2 Technical Advice Note 15: Development and Flood Risk states that caravan, camping and other temporary occupancy sites should be refused in zone C2, as should proposed changes of use to residential mobile homes and permanent housing. This will only be considered in zone C1 following application of a flood consequence assessment. We are not aware of a flood consequence assessment having been undertaken here.

6.4.3 WG Circular 30/2007 states that in order to ensure the sustainability of the site, consideration should be given to not locating sites in areas of high risk of flooding, given the particular vulnerability of caravans.

6.4.4 The Designing Gypsy and Traveller Sites Guidance issued by Welsh Government in 2015 also states that mobile homes are considered to be highly vulnerable to flooding and so should not be situated in C2 flood zones.

6.4.5 According to TAN15 Development Advice Maps, approximately one seventh of the 0.84 ha site is within zone C2. A small part of the site is also under zone B which is an area known to have been flooded in the past. This raises the question as to the suitability of part of the site for this highly vulnerable use and consequently how this affects the amount of developable area remaining for the number of pitches proposed.

## 7. Test of Soundness and conclusion

This hearing statement sets out, in relation to the tests of soundness that:

- The proposed site is not considered to be the most appropriate site for the allocated use;
- Allocation of this site is likely to have a catastrophic impact on the viability of the adjacent allocated employment site
- The allocation is likely to cause significant operational difficulties to the sensitive autism provision nearby alongside severely curtailing their plans to utilise potential allotment areas alongside the site;
- There is an alternative site which was historically preferable, and should remain so;
- The site has become illegally occupied and this now seems to have directed the site assessment conclusion;
- The assessment process is not coherent or consistent in having regard to each site assessed;
- The alternatives to this allocation (i.e. to allocate a more suitable site as previously) have not been properly considered;
- The previous site assessment evidence (for the abandoned LDP) is no longer referred to despite that LDP being abandoned for other reasons. The conclusion is not therefore logical or balanced having regard to the evidence;
- The site itself is not considered suitable having regard to the guidance;
- The site is partly in a zone C2 floodplain;
- Whether the proposed allocation can be implemented is unknown, since the costs of provision have not been examined, and funding has not been secured;
- Only this site is proposed to be allocated for this use, there is no second or third preference. There are no known contingency provisions.

Overall then it is considered that this allocation does not meet Test 2 Is the Plan Appropriate?, nor Test 3 Will the Plan Deliver?