

Hearing
Session
25

Gypsy and Travellers (2)

25th January 2017

Vale of Glamorgan Council Examination Statement



Hearing Session 25: Gypsy and Travellers (2)

1. Welcome, Introduction and Procedural Matters

2. Gypsy and Traveller Needs

- ***Has the Plan been informed by a robust and credible assessment of need and, if so, what are its findings?***

2.1 Yes. The Council has prepared an updated Gypsy and Traveller Accommodation Assessment (GTAA) (May 2016) (see Appendix A of Hearing Session 16 Action Point 2-5 response) which the Council considers provides a robust and credible evidence base for the consideration of the needs of gypsy and travellers within the Vale of Glamorgan. The GTAA has been prepared in accordance with guidance from the Welsh Government (WG) 'Undertaking Gypsy and Traveller Accommodation Assessments' (May 2015) (ED38). The GTAA study assesses the accommodation needs of the Gypsy and Traveller community in the Vale of Glamorgan to 2026. The GTAA was submitted to the Welsh Ministers by the Local Housing Authority on 28th June 2016 in accordance with the provisions of section 102 of the Housing (Wales) Act 2014 and is currently being considered by the Housing officials and the Welsh Ministers alongside GTAAs from other Welsh local authorities. A further update will be provided at the Hearing Session.2.2 Opinion Research Services (ORS) were commissioned by Vale of Glamorgan Council to undertake a GTAA to inform the Local Development Plan (LDP) and to meet the requirements of Sections 225 and 226 of the Housing Act 2004 and the advice set out in Planning Circular WG 30/2007 in respect of the Gypsy and Traveller community. With a baseline date of January 2016, the 2016 GTAA provides full details of the assessment process and findings.

2.3 The report's conclusions are summarised in the Council's composite Hearing Session 16 Action Point Response 2, 3, 4 and 5 and the findings of the report have informed Plan as amended by the Matters Arising Changes (MACs). In summary, a total of 2 pitches are required for the 5 years (short to medium term) of the LDP i.e. to 2021, and a further 18 pitches for the remainder of the development plan period i.e. to 2026 (the longer term).

2.4 The GTAA recommends that there is no need for the Council to provide a transit site however, the Council should continue to monitor the number of unauthorised

encampments and consider the use of short-term tolerated or Negotiated Stopping Arrangements to deal with short-term transient stops as and when they arise. Similarly, the GTAA has concluded that there is no additional need within the Vale of Glamorgan to provide for Travelling Show People. With regard to new household formation, the GTAA did not identify any new household formation from within the existing households within the Vale and it was therefore considered appropriate to apply the 3% per annum assumption used in other GTAA's.

2.5 With regard to the short to medium term need to 2021, the GTAA identifies a need for 2 pitches. This need is comprised of one family on an unauthorised but tolerated basis living on a site to the east of Llangan and one family living on a temporary site (temporary permission granted at Appeal for 3 years from 12 November 2014 APP/Z6950/A/14/2212012 refers) at Twyn yr Odyn on the outskirts of Wenvoe.

2.6 In respect of the long term need to 2026, the GTAA identifies a need for 18 pitches to accommodate the 17 households identified on the Hayes Road, Sully site plus an additional household as a result of new household formation over the plan period based on the 3% detailed above.

- ***Should the short term (to 2021) and longer term (to 2026) Gypsy and Traveller needs be clearly identified within Policy MG5?***

2.7 In their representation to the Matters Arising Changes the Welsh Government raised concerns that plan did not clearly set out the identified accommodation needs for gypsy and travellers over the plan period. They stated: *“the revised draft GTANA states the total need over the plan period is for 20 pitches which should be set out clearly in the reasoned justification to Policy MG5. The plan is currently silent on both the total and type of need, or indeed how the remaining need for 18 pitches will be addressed through either a policy or a monitoring approach”*. Having received this objection, the Council has entered into discussions with Welsh Government on this matter and accepts that the position on accommodation needs for gypsy and travellers over the plan period could be clarified further within the Local Development Plan. Therefore the Council would propose the following additional text be included at paragraph 6.39 of the plan in order to clarify the gypsy and traveller accommodation needs over the plan period:

6.39 The 2016 Vale of Glamorgan Gypsy and Traveller Accommodation Assessment (GTAA) identified an unmet need for 2 residential pitches over the short to medium term **and a further unmet need for 18 residential pitches for the remaining development plan period (i.e. after 2021). The monitoring framework sets out the Council's proposed steps to identify and deliver a further site to meet this unmet need.**

2.8 Welsh Government has confirmed to the Council that they are satisfied that the approach set out above addresses their concerns and that if the changes were made to the LDP it would overcome their objection.

3. Gypsy and Traveller Supply

- ***How is it proposed that the identified need be addressed through the Plan period?***

3.1 The Council considers that the plan as amended by the Matters Arising Changes is clear on how the short to medium term need identified in the 2016 GTAA will be met with Policy MG5 clearly allocating land for 2 pitches at an existing Council owned site at Llangan.

3.2 Proposals to meet the longer term need from 2021 to 2026 are set out within the Council's Hearing Session 16 Action Point response. This includes the establishment of a Gypsy and Traveller Accommodation Project Board and identification of an appropriate and deliverable site. The table below sets out, in summary, the timetable starting with the establishment of the Project through to provision of a new site. It will be noted that the table includes an action point for making and maintaining contact with the occupiers of the existing tolerated site at Hayes Road, Sully. As has been confirmed in the above-mentioned action points, the Hayes Road occupiers are likely to form the need that will arise in the latter part of the Plan, following the next GTAA in 2021, as the five year period for toleration of the occupiers (in accordance with paragraph 146 of the Welsh Government guidance on undertaking Gypsy and Traveller Accommodation Assessments) will come to an end. Accordingly, and having determined that the 'Option C' approach suggested in chapter 5 of the above-mentioned Guidance (on 'Making use of the assessment') is the most appropriate method of seeking to accommodating the Hayes Road Occupiers, the engagement and involvement of this group of New Travellers is considered to be a fundamental part

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of the process of accommodating the long term need that is likely to be identified in the latter period of the Plan.

- 3.3 The Council notes and accepts the comments of the Welsh Government in response to the Matters Arising consultation who stated: *“While the Council’s response paper to action points 2, 3, 4 & 5 sets out the Council’s positive commitment and timetable for delivering a more appropriate and suitable site for the residents at Hayes Road by 2018, this has not been reflected in the LDP. It should be. The details as set out in the table on page 7 of the Council’s Action Point Paper (Hearing Session 16) should be incorporated into the LDP through the monitoring framework in order to comply with national policy and the relevant legislation.”*
- 3.4 Having received this objection, the Council has entered into discussions with Welsh Government on this matter and accepts that the positive commitment and timetable as set out in the Council’s response to Hearing Session 16: Action Points 2, 3, 4 & 5 to address the identified gypsy and traveller accommodation needs beyond 2021 should be incorporated into the LDP through the monitoring framework in order to comply with national policy and the relevant legislation. The Council would, therefore, propose the addition of the table below to the LDP Monitoring Framework to ensure that the plan is clear as to how and when the identified gypsy and traveller need within the Vale of Glamorgan will be met in the long term:

Ref No.	Indicator – Core / Local	Monitoring Target	Trigger Point	Relevant Policies/SA Objectives	Data Source
7.5	LOCAL: Meeting the identified future need for authorised Gypsy and Traveller Accommodation.	Establish a Gypsy and Traveller Accommodation Project Board	By June 2016	Strategic Policies: SP1 Managing Growth / Development Policies: MG5 MD18	VOGC / GTAA.
		Agree project management arrangements including reporting structure.	By end of June 2016.		
		Make initial contact and maintain contact with the Hayes Road occupiers.	July, 2016 to May, 2018.		
		Agree methodology for undertaking site search and assessment.	By end of December 2016.		
		Undertake a site search and assessment and	By end of December 2016.		

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		secure approval of findings including identification of an appropriate site or sites.			
		Secure planning permission and, if appropriate, funding (including any grant funding from Welsh Government) for the identified site.	By end of May 2018.		

3.5 Welsh Government has confirmed to the Council that they are satisfied that the approach set out above addresses their concerns and that if the changes were made to the LDP it would overcome their objection.

3.6 By way of an update on the progress made by the Council on the above timetable, a Gypsy and Traveller accommodation project group and board has been established, which is a joint project with both Planning and Housing. The Project Board meets on a monthly basis and significant progress has been made since its establishment.

3.7 In terms of opening a dialogue with the Hayes Road occupiers, officers of the Project group have met with a small group of the occupiers and advised them of the Project and its purpose. The group have been asked a number of questions in order to establish their current situation, as well as their needs and their aspirations for a new site. During the contact the Council has had with the Hayes Road occupiers their requirements in terms of access to public transport, geographical location, access to schools (primary/secondary/special needs), and access to medical facilities were discussed. The occupiers' needs in terms of on-site facilities (running water, buildings, hard surfacing, etc.) were also discussed, as well as how the occupiers envisaged the new site would be managed. Whilst the occupiers' initial thoughts on these matters have been established, they have been provided an opportunity to consider these matters further, as a group, with the view to further discussion taking place in a meeting scheduled early in 2017.

3.8 With regard to the progress made on finding a suitable site, a site search methodology has been prepared. The Project group have reviewed all sites that were considered in the Gypsy and Traveller Site Assessment Background Paper September, 2013. The Project group have also reviewed any other Council owned sites throughout the Vale of Glamorgan that were not included in the September 2013 Paper. In this first stage

of reviewing the sites a number have been discounted where they are either not available / deliverable, have significant site constraints or have been allocated for an alternative use. The Project group are now in the process of undertaking a more detailed assessment of the remaining sites in order to establish any further site constraints, and whether these are insurmountable or not. This second stage and the remaining stages of the site review will be set out in a new Gypsy and Traveller Site Assessment Background Paper which is currently being compiled.

3.9 The Council is also investigating other alternative land available in public and private ownership that could be acquired for this purpose.

3.10 It is intended that the remaining stages of the site assessment will involve a review of the remaining sites (i.e. those that have a limited number of type of constraints or constraints that are not insurmountable) in the light of the feedback from the Hayes Road Occupiers of their needs and aspirations for a new site. As noted from the timetable above, this process will be completed before a site is selected and planning permission obtained by the end of May, 2018. In view of the above, significant progress has already been made in order to meet the long term Gypsy and Traveller need through the Plan period and the Council is satisfied that it will be able to meet the Monitoring Indicator targets set out above by the identified trigger points.

• ***Is it sufficiently clear how the longer term needs (to 2026) will be addressed through the Plan's policies and Monitoring Framework?***

3.11 The Council considers that, with the changes set out above, the plan will be clear how the longer term needs (to 2026) will be addressed through the Plan's policies and Monitoring Framework.

4. New site at Llangan (proposed amendments to Policy MG5 via MAC50 and Proposals Map MAC112)

• ***What is the size of the site / How many pitches are proposed?***

4.1 The site comprises 0.76 hectares and has been allocated for 2 pitches. The 0.76 hectares of the site can accommodate at least 2 pitches that would accord with the Welsh Government Guidance document on Designing Gypsy and Traveller Sites (May 2015).

• ***What is the current status of the land?***

4.2 The site is owned by the Vale of Glamorgan Council and has accommodated a Gypsy and Traveller family since 1994. The site currently houses a number of buildings / caravans, a storage container, refuse storage area, hard surfaced yard and mobile caravans, all of which are housed on approximately 0.16 hectares of the site. The remainder of the site comprises an undeveloped field parcel understood to be Grade 4 agricultural land indicated on the 1996 ALC plans held by the Council.

Land use Planning Status:

4.3 The planning history for the site includes a planning permission for a residential use granted in December, 1994. This permission was subsequently quashed by the High Court in November, 1997. A further application for permission was subsequently submitted, but was refused and dismissed at appeal in February, 2003. The site does not, therefore, have the benefit of planning permission for a residential use.

4.4 Notwithstanding the above, the site has a long standing residential use by a gypsy and traveller family, having first been occupied for residential purposes in or about 1994. In view of this, it is unlikely that any planning enforcement action could be taken against the current residential use. While the site does not benefit from planning permission for the residential use, in view of the time that has elapsed since the residential use of the site began, if an application for a certificate of lawfulness were to be submitted to the Council under section 191 of the Town and Country Planning Act 1990 (as amended) in respect of the use of the site for residential purposes it is likely that a certificate would be issued.

Ownership Status and Other Legal Matters:

4.5 The Council is the freehold owner of the site and has maintained ownership despite the residential occupation by a Gypsy and Traveller family for some 20 years. The Council, as land owner, has tolerated that family's occupation of the site, although in the past action was pursued in an attempt to regain possession of the land. This is a matter that has been referred to by a number of the representors in response to the MAC changes that have been proposed. Accordingly, the following section of this evidence seeks to address this matter, providing in the first instance a chronology of the legal history to the site.

4.6 As mentioned above, planning permission was granted by South Glamorgan County Council in 1994 for the use of the site as a "single Family Traveller Site" subject to an

agricultural occupancy condition. This grant of permission was challenged by a Mr Harding and was subsequently quashed in 1997 in the High Court. In the intervening period the Vale of Glamorgan Council became the owner of the site upon local government reorganisation in 1996 and the former Chief Executive of The Vale of Glamorgan Council gave an Undertaking, referred to by various representors, to Mr Harding in May 1996. An extract of the undertaking is provided overleaf.

- 4.7 At that time the Vale of Glamorgan Council also issued proceedings to take possession of the land in September 1996. These proceedings were, however, stayed pending the outcome of the High Court proceedings, referred to above. The Judicial Review hearing took place in November 1997 where the planning permission was quashed.
- 4.8 Following the Judicial Review hearing the Council considered recommencing the eviction proceedings and took legal advice on the matter. The Council were particularly mindful of its obligation to find alternative accommodation for the occupiers of the site as the eviction proceedings would result in the occupiers being homeless. In addition to this, it is understood that at this time the site was occupied by children of school age and a child with special educational needs.
- 4.9 Despite the Judicial Review decision, it is understood that a decision was made by the Council not to pursue the possession proceedings. The Council's review of the reasonableness of its decision to pursue the possession proceedings was made in the light of the history of the site, the lack of an alternative site for the occupiers and consideration of the case law that was emerging as a result of the Human Rights legislation that had come into effect at that time. The legal advice the Council received at the time indicated that it would be unlikely that it would successfully defend any Judicial Review of its decision to take possession of the site. As such, it would not be in the public's interest to pursue the possession proceedings.

UNDERTAKING

I, David Lyn Foster, Chief Executive to The Vale of Glamorgan Council (hereinafter called "the Council") am duly authorised to give this Undertaking for and on behalf of the Council, which shall hereafter be bound by it and all of its terms.

The Council hereby undertakes to Stanley Harding of South Rise, Llangan in the Vale of Glamorgan that it will:-

- (1) Use its best lawful endeavours to remove from the site known and situate at OS Parcel No. 3869 ("the site") at the earliest possible date, whether by legal proceedings or other lawful means, Mr. William Carrol and any other person who then occupies the said site and to prevent their return; and
- (2) Upon the site becoming vacant to:
 - (a) remove all structures and facilities placed on the site with all due expedition; and
 - (b) disconnect all services that have been connected to the site with all due expedition; and
 - (c) reinstate the said site to a condition similar to that enjoyed prior to the granting of unlawful planning permission with all due expedition.
- (3) Terminate the licence and grazing rights granted to Mr. Carrol on or about 20th December, 1994 in accordance with any lawful right to do so.

Signed: 
David Lyn Foster,
for and on behalf of The Vale of Glamorgan Council

Dated: 1st May, 1996.

4.10 Notwithstanding the above chronology, it is noted that a number of the MAC representors have referred to the legal Undertaking (extract provided above) and suggest that this prevents the allocation and continued use of the land as a Gypsy and Traveller site. The Undertaking was provided by David Lyn Foster, the former Chief Executive of the Vale of Glamorgan Council, to Stanley Harding and is dated 1st May, 1996. A copy of the Undertaking is provided at Appendix 1. The Council has considered the Undertaking in the light of the legal history to the site and have determined that it is unlikely that Mr Harding would succeed in any attempt to enforce the Undertaking. The reason for this conclusion is as follows:

- The Council instigated proceedings to evict the occupiers of the site in 1996. Those proceedings were stayed pending the outcome of the Judicial Review. Despite the Judicial Review decision, the Council subsequently withdrew the possession proceedings having reviewed both the reasonableness of its decision to pursue the eviction and whether these proceedings would be in the public interest. It is, therefore, the Council's view that paragraph 1 of the Undertaking has been discharged.
- Paragraph 2 is only operative upon the site becoming vacant, which has not occurred. This requirement would in any event now be redundant in light of paragraph 1, in that the Council failed to remove from the site William Carroll despite its best lawful endeavours.
- Paragraph 3 has been discharged as a licence that was issued in May 1995 was terminated in June 1996 and no further licences have been issued in respect of the site.
- Regardless of the Council's view that the Undertaking has been discharged, it can only be enforced by the person with the benefit of the Undertaking, who is in this case Mr Harding. Such enforcement proceedings would be pursued outside of the LDP process and would be a separate action in law

4.11 In addition to the above, statutory law in respect of Human Rights and the accommodation of Gypsies and Travellers, together with the duties of the Council imposed under that legislation, have significantly developed since the Undertaking was given. Section 101 of the Housing (Wales) Act 2014 lays down the duty to assess the needs of Gypsies and Travellers in a Council's administrative area and section 103 lays down a strict duty to meet assessed needs. Furthermore, current Welsh Government Guidance provides for the toleration of the site which has now been occupied for residential purposes for a considerable period. It is the Council's view that such matters would be material to any proceedings brought in respect of the undertaking and would continue to justify the Council's decision to allow the continued occupation of the site.

4.12 In summary, the Council are the freehold owners of the site and there are not considered to be any legal constraints that would prevent the continued use of the site for residential purposes for the accommodation of two Gypsy and Traveller families.

- ***Is the allocation consistent with national planning policy?***

4.13 Yes. The Council considers that the site allocation is in accordance with the guidance set out in Welsh Government Circular 30/2007 (Planning for Gypsy and Traveller Sites) and the May 2015 Welsh Government Guidance on Undertaking Gypsy and Traveller Accommodation Assessments (ED38) and Designing Gypsy and Traveller sites (ED39).

4.14 In the first instance the site has been allocated having considered not only the results of the most recent GTAA (in terms of the number of families identified as being in need), but also the Council's knowledge of the families identified in the Assessment (in terms of their background and their needs). On pages 43 to 45 of the WG Guidance on undertaking a GTAA advice is given with regard to making use of the results of the Assessment. It provides three possible options for meeting the unmet need and suggests which approach may be most suitable for different groups within the Gypsy and Traveller community. All things considered, the Council have determined that the allocation of this site in accordance with 'Option A' of the guidance (paragraphs 232 to 236) is most appropriate. As mentioned earlier, the site is a Council owned site and is already occupied by the one of the families identified in the GTAA as being in need. This family has occupied the site by virtue of an existing chalet type unit and associated static caravans. They have also been provided with a purpose built utility block/day room. In addition to this, these types of facilities were also sought by the occupiers of the Wenvoe site (the second family to be accommodated on the allocation) in their application for planning permission for the site they currently occupy with a temporary permission. Accordingly, the more conventional site layout already on this allocation is considered appropriate for the 2 families identified as being in need, subject to the provision of a further day room, etc.

4.15 In terms of the location of the site, some guidance is provided on pages 11 and 12 of the Welsh Government Designing Gypsy and Traveller Sites document and within the WG Circular 30/2007. Whilst it is accepted that the site is not within or adjacent to an existing settlement, it is not considered to be wholly isolated. The site is located close to the Minor Rural Settlement of Fferm Goch, together with the facilities it contains, and as such the allocation as a Gypsy and Traveller site is considered to be in accordance with the draft Development Plan Strategy. Whilst such a location may not be considered suitable for conventional housing, a more flexible approach to the location of Gypsy and Traveller sites is condoned in both the guidance document and Circular, mentioned above. In particular, paragraph 3.22 of the 'Designing Gypsy and

Traveller Sites' guidance document suggests that *'it is likely that Local Authorities will need to follow the "line of best fit" when assessing potential sites'* and indicates that a particular site may be appropriate even if it does not completely satisfy the guidance in the document. For example, in terms of access to the site, it states that *'although access to public transport would be ideal, it may be unrealistic in close proximity to the site in a rural settings'*. Paragraph 26 of Circular 30/2007 also states that *'rural settings, where not subject to specific planning or other constraints, are acceptable in principle'*. When identifying a site, paragraph 19 of the Circular also suggests that site sustainability should be assessed not only in terms of transport mode, but also in terms of, *inter alia*, the following:

- *'opportunities for growth within family units;*
- *the promotion of peaceful and integrated co-existence between the site and the local community;*
- *the wider benefits of easier access to GP and other health services;*
- *access to utilities including waste recovery and disposal services;*
- *access for emergency vehicles;*
- *children attending school on a regular basis;*
- *also other educational issues such as space e.g. for touring or static play bus, homework club, teaching base for older children and adults - (see proposed Good Practice for Local Education Authorities in Wales in meeting educational needs at Annex A);*
- *suitable safe play areas;*
- *contribute to a network of transit stops at intervals that reduce the need for long-distance travelling - see paragraph 7;*
- *possible environmental damage caused by unauthorised encampment;*
- *not locating sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans and;*
- *regard for areas designated as being of international or national importance for biodiversity and landscape - see paragraphs 34-35 below.'*

4.16 There are a number of factors that render this allocation sustainable in accordance with Circular 30/2007. These include the following:

- There has been little or no impact upon the local community during the 20 years that the site has been occupied by a Gypsy and Traveller family. The anticipated increase in residents from 1 to 2 families is a scale that would not adversely impact upon the local community, and allow for further integration with the local community.
- The site is capable of expansion and improvement to meet any future need identified in the latter stages of the plan (not including the need that it is anticipated will arise from the Hayes Road occupiers) or any growth that may result from within the existing family units.

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- The site is not constrained in terms of any health and safety issues (identified as important in 'Designing Gypsy and Traveller Sites' Guidance document - paragraph 3.21).
- The site is within reasonable access to local schools.
- The site can accommodate a suitable and safe children's play area.
- The limited development that will be required to accommodate a further pitch can be entirely contained within the existing site boundaries and is unlikely to adversely impact on biodiversity.

4.17 In view of the findings above, the allocation is considered to be wholly consistent with national planning policy.

- ***Are there any significant constraints/ barriers that make the site unacceptable/ undeliverable?***

4.18 The Council has consulted with statutory consultees including Natural Resources Wales, Dwr Cymru Welsh Water and relevant internal departments and no significant physical constraints have been identified that would prevent the deliverability of the site to meet the identified need within the required timeframe.

4.19 The site currently accommodates one gypsy and traveller family and has the capacity to accommodate additional residents subject to any necessary upgrades being provided on site e.g. additional hard standings, service points, utility provision etc.

4.20 While the Council's consultations have not identified any specific constraints that would prevent the deliverability of the site, the Council's Highway Engineers have advised that amendments to the access will be required to ensure that it conforms to current access design standards. These amendments can be carried out within the land owned by the Council.

4.21 Dwr Cymru Welsh Water have advised that while there are no issues in providing a supply of clean water or public sewerage to the site, a significant level of off-site mains and off-site sewers will be required in order to connect the site. The site is outside Waste Water Treatment Works catchments, although the off-site sewers will enable connection to the catchment of Penybont Waste Water Treatment Works.

4.22 Notwithstanding the above, representors have raised a number of concerns and identified a number of possible site constraints. Whilst some of these have already been addressed elsewhere in this evidence, some are addressed in the following section.

Response to MAC Representations:

Comments on the 2013 Gypsy and Traveller Needs Assessment Background Paper

4.23 Representors suggest that in the 2013 GTAA background paper the Council considered the Llangan site to be unacceptable and have referenced sections from the Paper to justify this view. It is considered that the views represented in this document are not attributed and do not represent the considered view of the Council. Furthermore, this document was not a site assessment methodology as should not be relied upon as such. The site assessment was contained in the Gypsy and Traveller Site Assessment Background Paper 2013, (ID No.24 Land to the east of Llangan)(Submission Document 33), which identified it as a potential site without any undue constraints. The Hayes Road site was previously chosen in preference to the Llangan site, but this does not mean the Llangan site was considered to be unsuitable for this use.

Access

4.24 With regard to representations made in respect of the site's access, in upgrading the site to accommodate the identified need the Council would implement all necessary improvements to comply with Welsh Government's guidance on designing gypsy and traveller sites as well as current access design standards. As mentioned earlier, it is considered that all improvement works can be carried out within land in the Council's ownership or the adopted Highway.

4.25 With regard to the representations in respect of access to the site by emergency vehicles, it is noted that the concerns of representors are in respect of the section of adopted highway to the site from the main thoroughfare between Llangan and Fferm Goch. This is section of adopted highway that is some 100 metres. It is noted that, whilst the width of the adopted highway along this section is broad, the carriageway itself is limited. Notwithstanding this, the Council have considered the access and highway arrangements to the site and are of the view that these would not prevent access to the site by emergency vehicles.

Impact on the Llangan Conservation Area

4.26 With regard to the concerns of representors in respect of the impact of the allocation on the Llangan Conservation Area, it is noted that the Conservation Area was designated in 1973 and its boundaries were most recently reviewed in 2009 as a part

of the Council's widespread conservation area review. A map showing the extent of the Conservation Area in the context of the site is attached at Appendix 2.

- 4.27 The allocated site is approximately 475 metres to the east of Llangan and is separated from the Conservation Area by a number of field parcels, properties, highway, hedgerows and field boundaries. The proposed increase in the accommodation provided on the site, from one to two pitches, will take place within the existing site and, as such, will be barely discernible from within the Conservation Area. As such, the allocation will not impact upon the Conservation Area itself.
- 4.28 Representations have been made with regard to the impact of the allocation on the landscape setting of the Conservation Area. Whilst it is accepted that the landscape setting is important, it is noted that the Conservation Area boundary to the east is tightly drawn to the existing garden curtilages of the properties Rookery Nook, Oakfield and Chimanmani, specifically excluding the open fields beyond. In contrast, the boundary to the north west, north east and south has been drawn widely to include open fields that are considered to contribute to the Conservation Area itself.
- 4.29 In addition to the above, while the Conservation Area extends to cover a large proportion of the village, the south-eastern linear extension of the village and the cul-de-sac of Twchwyn Garth dating from the second half of the 20th century are not included. The Conservation Area Appraisal and Management Plan identifies that the important views are predominantly to the north and south of the conservation area, although a 'significant view' is identified from the Conservation Area looking east. Notwithstanding this, the easterly views are largely restricted to two private dwellings set back from the adopted highway, those being Rookery Nook and Oakfield. There is a significant distance between the allocated site and the Conservation area and any views over that distance are interrupted by the existing and numerous field boundaries and hedgerows. Furthermore, the view into the core of the Conservation Area from the east is restricted by modern infill buildings at Rookery Nook and Oakfield, which are on the periphery of the Conservation Area. Indeed the conservation area appraisal specifically references both buildings as follows:

'The shift from agricultural to residential uses is exemplified by former farm buildings which have been extended and converted to residential uses (i.e. The Granary and The Byre) and modern backland infill (i.e. Rookery Nook, Oakfield) which occupies the site of former small fields.'

4.30 In light of the above, it is considered that the allocation and the use of the site for the purposes of providing two Gypsy and Traveller pitches will have a neutral impact upon the wider setting of the Llangan Conservation Area.

Special Landscape Area

4.31 With regard to the Special Landscape Area (SLA) designation, a number of representations have highlighted that the Council's Gypsy and Traveller Site Assessment Background Paper 2013 incorrectly states that the Llangan site is not located within a Special Landscape Area.

4.32 The Council accepts this inaccuracy, which has resulted from changes to the SLA boundary proposed in the 2013 review and an inconsistency between the two updated documents when they were originally prepared. The Council would confirm that, following the changes to the SLA Background Paper in 2013, the allocated site now sits within the Upper and Lower Thaw Valley SLA (Policy MG17 92) refers).

4.33 Turning to the impact of the proposal on the SLA, the representations clearly acknowledge that the role of the SLA designation is not to prevent development but to ensure that any proposed development will not adversely impact upon the SLA. Whilst it is accepted that the allocation and the residential use is visible from the adjoining adopted highway, the character of the site as viewed from the highway is that of a developed site accommodating a formal access, hard surfacing, and built development, all of which are lawful in planning terms. As mentioned above, any alterations to the site necessary to accommodate the additional family will be carried out within the existing curtilage and will not have a significant impact on the existing character of the site. Accordingly, the continued use of the site for residential purposes is considered to have a very limited impact on the wider character of the SLA.

5. Policy MD18: Gypsy and Traveller Accommodation

- ***Should criterion 1 refer to 'local' need given the definition of Gypsies and Travellers in WG Circular 30/2007?***

5.1 At Hearing Session 16 there was discussion regarding the proposed sequential approach within Policy MD18. In particular, concerns were expressed regarding the policy approach which implied proposals for new gypsy and traveller sites outside of existing or allocated sites could be refused where they were not justified. This was considered to be contrary to guidance provided in Welsh Government Circular 30/2007

(paragraphs 19 and 26) which advise that rural sites in other areas can be acceptable in principle.

- 5.2 In response to Action Point 6 of Hearing Session 16, the Council proposed amendments to Policy MD18 – Gypsy and Traveller Accommodation and amended criterion 1 to introduce a demonstration of local need and criterion 2 to provide for reasonable access to local services and facilities.
- 5.3 In their representation on the Matters Arising Changes the Welsh Government objected to Policy MD 18 as follows: *“Policy MD18 makes reference to ‘local need’. Paragraph 7.56 of the plan defines ‘local housing need’ under policy MD11 as those with a local connection. If this is also the definition for policy MD18, the reference to ‘local need’ could be inappropriate as some Gypsies and Travellers may not have any local connection due to a nomadic habit of life. Therefore, the policy could be considered discriminatory. Paragraph 7.81 of the plan states the Council must be satisfied “that there is a demonstrable need for the accommodation in the proposed location.” It is difficult to understand how any household would be able to convince the Council that the specific location is where a site is required to be placed and therefore, this could be considered as too onerous. Clarification is sought on the above two points to ensure that the policy cannot be considered to be discriminatory, or demonstrating a need for the accommodation in the proposed location is too onerous.”*
- 5.4 The Council would wish to clarify that it was not their intention to apply the reasoned justification for Policy MD11 (Affordable Housing Developments outside Settlement Boundaries) to development being assessed against Policy MD18 (Gypsy and Traveller Accommodation). However, having received this objection, the Council has entered into discussions with Welsh Government on this matter and accepts the Council accepts their concerns with regard to the justification of ‘local need’ and would propose to remove the requirement from the plan.
- 5.5 The Council would, therefore, propose the following amendments to Policy MD18 and its reasoned justification:

POLICY MD 18 - GYPSY AND TRAVELLER ACCOMMODATION

PROPOSALS FOR ADDITIONAL GYPSY AND TRAVELLER ACCOMMODATION
WILL BE PERMITTED PROVIDING THAT:

- ~~1. IT IS DEMONSTRATED THAT THERE IS A LOCAL NEED FOR THE ACCOMMODATION;~~
2. THERE IS REASONABLE ACCESS FROM THE SITE TO DAY TO DAY SERVICES, FACILITIES AND EMPLOYMENT, INCLUDING SCHOOLS, MEDICAL FACILITIES, SHOPS AND COMMUNITY FACILITIES;
3. THE SIZE OF THE SITE AND THE NUMBER OF PITCHES ARE APPROPRIATE TO ITS LOCATION AND ACCOMMODATION NEEDS OF THE APPLICANT;
4. ADEQUATE ON SITE SERVICES FOR WATER SUPPLY, DRAINAGE, SEWAGE, POWER AND WASTE DISPOSAL ARE AVAILABLE OR CAN BE PROVIDED WITHOUT CAUSING ANY UNACCEPTABLE ENVIRONMENTAL IMPACT; AND
5. THE EXISTING HIGHWAY NETWORK IS ADEQUATE TO SERVE THE SITE AND A SATISFACTORY MEANS OF ACCESS CAN BE PROVIDED, INCLUDING PROVISION FOR PARKING, TURNING, SERVICING AND EMERGENCY VEHICLES.

THERE WILL BE A PREFERENCE FOR ACCOMMODATION NEEDS TO BE MET ON ANY OF THE FOLLOWING:

- ALLOCATED GYPSY AND TRAVELLER SITES;
- EXISTING GYPSY AND TRAVELLER SITES OR ON APPROPRIATE EXTENSIONS TO THOSE SITES; OR
- SITES WITHIN EXISTING SETTLEMENTS.

7.81 National guidance recognises the need for a criteria based Policy in order to assess proposed private or other gypsy and traveller sites, in order to meet future or unexpected demand. Policies must be fair, reasonable, realistic and effective in delivering sites. Accordingly, Policy MD18 sets out the criteria for new gypsy and traveller accommodation. ~~with a need for the Council to be satisfied that there is a demonstrable need for the accommodation in the proposed location.~~

7.82 Where the proposal is considered to be justified ~~on the basis of individual need~~, planning permission will be restricted to the applicant and their dependent resident family. In addition, the sustainability of the site in terms of access to essential services and facilities will also be an important factor in determining the suitability of the proposals.

7.83 The Council may impose planning conditions to control business uses and associated buildings on the site to ensure that they remain ancillary to residential use. In this regard and where relevant, planning applications should be accompanied by details of any proposals for the storage of plant and equipment associated with the business activities of those living on the site.

5.6 Welsh Government has confirmed to the Council that they are satisfied that the approach set out above addresses their concerns and that if the changes were made to the LDP it would overcome their objection.

- ***Is the Policy consistent with the advice set out in national policy?***

5.7 The Council considers that the Policy, as amended above is consistent with the requirements of national planning policy.

6. Any Other Matters

6.1 The Council has no further matters.

Appendix 1 - Legal Undertaking to Mr Harding.

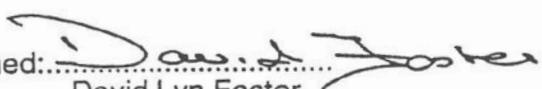
UNDERTAKING

I, David Lyn Foster, Chief Executive to The Vale of Glamorgan Council (hereinafter called "the Council") am duly authorised to give this Undertaking for and on behalf of the Council, which shall hereafter be bound by it and all of its terms.

The Council hereby undertakes to Stanley Harding of South Rise, Llangan in the Vale of Glamorgan that it will:-

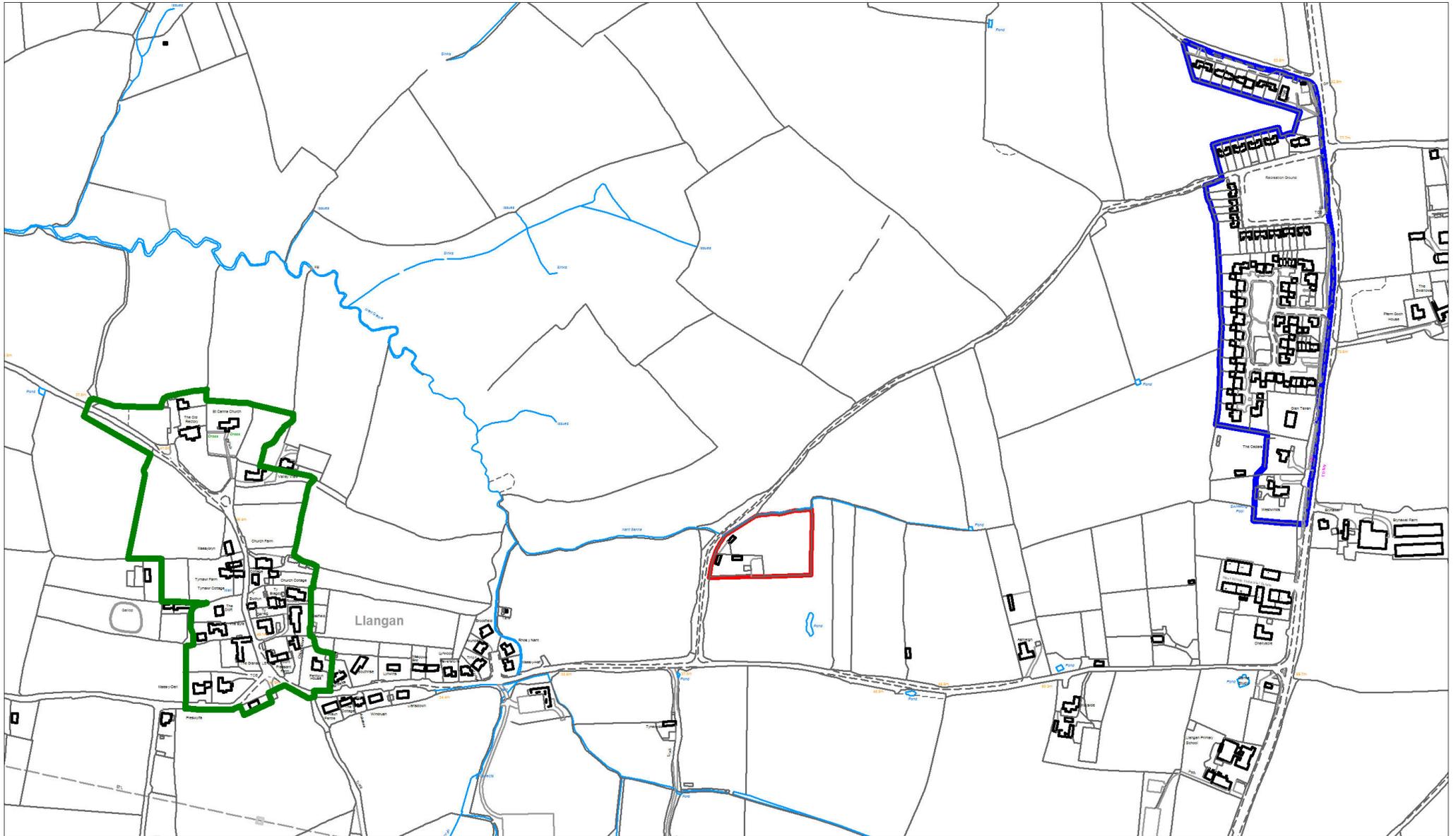
- (1) Use its best lawful endeavours to remove from the site known and situate at OS Parcel No. 3869 ("the site") at the earliest possible date, whether by legal proceedings or other lawful means, Mr. William Carrol and any other person who then occupies the said site and to prevent their return; and
- (2) Upon the site becoming vacant to:
 - (a) remove all structures and facilities placed on the site with all due expedition; and
 - (b) disconnect all services that have been connected to the site with all due expedition; and
 - (c) reinstate the said site to a condition similar to that enjoyed prior to the granting of unlawful planning permission with all due expedition.
- (3) Terminate the licence and grazing rights granted to Mr. Carrol on or about 20th December, 1994 in accordance with any lawful right to do so.

Signed:.....


David Lyn Foster,
for and on behalf of The Vale of Glamorgan Council

Dated: 1st May, 1996.

Appendix 2: Site Context site allocation MG5 to Llangan Conservation Area and Fferm Goch.



 MG5 Llangan  Llangan Conservation Area  Fferm Goch Settlement Boundary