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# Vale of Glamorgan Local Development Plan Examination

Hearing Session 25: Gypsy &  
Travellers (2)

Hearing Session Paper on behalf of  
Llangan Action  
Representor ID 4126

January 2017

**VALE OF GLAMORGAN LOCAL  
DEVELOPMENT PLAN EXAMINATION**

**HEARING SESSION 25:  
GYPSY & TRAVELLERS (2)**

**HEARING SESSION PAPER ON BEHALF OF  
LLANGAN ACTION**

**JANUARY 2017**

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**CONTENTS**

	Page No.
1. Matters and Issues Agenda	1

## 1.0 MATTERS AND ISSUES AGENDA

1.1 This Paper is structured such that it follows the Matters and Issues Agenda for Hearing Session 25: Gypsy and Travellers (2) of the Vale of Glamorgan Local Development Plan Examination and should be read in conjunction with the Representations by Llangan Action to the 2016 MAC Consultation. Each agenda item is repeated within this Section in bold text, followed by Llangan Action's response in plain text below.

### **1. Welcome, Introduction and Procedural Matters**

1.2 No comment.

### **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?**

1.3 For the Council to confirm.

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

1.4 See paragraphs 1.8 to 1.9 below.

### **3. Gypsy and Traveller Supply**

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

1.5 Under Policy MG 5 of the Vale of Glamorgan Deposit Plan as amended by the Schedule of Focused and Minor Changes (June 2015) ("LDP"), land at Hayes Road, Sully is allocated for a Gypsy and Traveller site. The policy states that *"LAND IS ALLOCATED AT HAYES ROAD, SULLY FOR THE PROVISION OF A GYPSY AND TRAVELLER SITE"*.

1.6 The Vale of Glamorgan Council has since proposed to amend Policy MG 5 of the LDP via MAC50 and MAC112 to state that *"LAND IS ALLOCATED AT LLANGAN FOR THE PROVISION OF A 2 PITCH GYPSY AND TRAVELLER SITE"*.

1.7 As confirmed above, MAC50 proposes to amend Policy MG 5 to delete Land at Hayes Road, Sully and allocate Llangan for a Gypsy and Traveller site (2 pitches). However, the proposed site at Llangan does not meet the need identified within the Vale of Glamorgan Gypsy & Traveller Needs Assessment which confirms that there is an unmet need of 20 pitches over the Plan period. Therefore, the allocation of Land at Llangan for 2 pitches does not meet the need and an alternative sustainable site that meets the identified need of 20 pitches is required to make the plan 'sound'.

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

1.8 No, and it is also clear that the longer term need cannot be met at Llangan. MAC50 (Policy MG 5) makes no reference to the longer term needs of Gypsies and Travellers although paragraph 11 of the Council's Response to Action Points 2, 3, 4 & 5 of Hearing Session 16 confirms that the site at Llangan is large enough and is "*capable of expansion such that it could accommodate more pitches in due course should the need arise, and subject to review and monitoring of the Plan*". If the Council is proposing to address the long term Gypsy and Traveller need via additional pitches at Llangan then this should be made clearer in the relevant Policy text and therefore be subjected to the same Tests of Soundness as the proposed allocation.

1.9 Longer term needs are therefore not adequately addressed and the Plan fails Tests of Soundness 1, 2 and 3.

#### **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?**

1.10 For the Council to clarify.

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

1.11 The site is identified as land within the open countryside according to the adopted Unitary Development Plan. The site is divorced from any defined settlement boundary, the nearest being circa 1km away at Grain Penllyn.

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

1.12 As confirmed within the Representations to the MAC consultation in October 2016, the proposed allocation at Llangan is not considered to be consistent with national planning policy for the following reasons.

*Sustainability*

1.13 The Vale of Glamorgan Council has clearly not followed the approach set out within PPW and the WG Circular 30/2007 by designating the Llangan site that is located in the open countryside of the Vale, with the site not even adjoining the boundary of even a Minor Village, which is considered to contrast with the requirements of PPW (paragraphs 4.7.4 & 4.7.8)

1.14 The proposed site is not located within or adjoining a settlement as designated in the LDP, with the nearest settlements being Llangan which is at least 600m away and Fferm Goch which is 950m away. The site is accessed via a narrow, poorly maintained, rural lane with no streetlights, footpath or verge, not offering safe access to either village or the school. These settlements do not provide the necessary infrastructure to create a sustainable development and public transport facilities are very limited.

1.15 Furthermore, the proposed allocation therefore does not comply with paragraph 3.22 of the Designing Gypsy and Traveller Sites (May 2015) guidance document produced by the Welsh Government which confirms that sites should be *"Ideally located within reasonable distance from education settings, health services and shops"*.

1.16 The settlement currently consists of 88 residents according to the Sustainable Settlements Appraisal Background Paper (February 2016 Update) 2016 produced in response to Action Point 4 of Hearing Session 1. The infrastructure to the settlement is typical of a rural hamlet and we would question whether the current infrastructure of the Gypsy Traveller site is sufficient to meet the identified need and whether adequate funds are available to secure any necessary improvements.

1.17 The Sustainable Settlements Appraisal Background Paper (February 2016 Update) sets out how the Council has developed the settlement hierarchy in the Vale of Glamorgan. Within the Background Paper, Llangan is identified under the settlement category of 'Hamlets and Rural Areas'. Llangan scores poorly in the Initial Sustainability Rankings (48th out of 57 settlements). Paragraph 6.9 of the updated Background Paper confirms that 'Hamlets and Rural Areas' have a limited role and function and such settlements

- require protection from over-development through planning controls to safeguard these sensitive rural settlements and the rural character of the Vale.
- 1.18 Hamlets and Rural Areas are not mentioned in Chapter 5 of the LDP that in terms of accommodating new development. Clearly, the provision of a Gypsy and Traveller site constitutes 'development' and the proposed allocation near Llangan is not in keeping the settlement strategy set out in the LDP. Furthermore, the proposed site does not meet the objectives of Policy MD 1 – 'Location of New Development' of the LDP.
- 1.19 The Sustainable Settlements Appraisal Background Paper (February 2016 Update) identifies 'Acceptable Walking Distances' in Table 1. In this regard, it is noted that the Council state that *'Whilst the Llangan site is in a rural location, it is nevertheless close to the village of Llangan and the minor rural settlement of Fferm Goch'*. However, it is not considered appropriate to use the settlement of Fferm Goch to confirm the sustainability of the site because Fferm Goch scores zero for bus and rail facilities and is located 950m away beyond the ideal walking distances for a primary school, local shop, public house, post office and community centre, along an unlit country lane with no footway, as set out in the Background Paper.
- 1.20 In relation to Llangan, Appendix 3 of the Background Paper confirms that Llangan scores zero for public transport facilities. If a Gypsy and Traveller site was allocated at Llangan, the occupants of the site would be denied sustainable access to a wide range of facilities and services. Accordingly, the proposed allocation of Land at Llangan and the supporting text within paragraph 11 of the Council's Response to Action Points 2, 3, 4 & 5 is considered to contradict the findings of the Background Paper.
- 1.21 Paragraph 11 of the Council's Response to Action Points 2, 3, 4 & 5 makes reference to the site being located in close proximity to Fferm Goch, which is identified as a 'Minor Rural Settlement'. However, as set within the 2016 MAC Representations, the assessment of Fferm Goch is considered to be artificially high due to the employment indicator and the presence of a primary school with the other facilities and services available being very limited in scope.
- 1.22 As confirmed within the 2012 and 2014 Representations by Llangan Action, the assertion that the development of a Gypsy and Traveller site at Llangan does not constitute sustainable development is also supported by a number of planning applications and Appeal decisions (2002/00109/FUL and (2011/00710/FUL) which are detailed in the 2016 Representations. In summary, planning application ref. 2002/00109/FUL for change of use to a gypsy caravan site for personal use was refused on the grounds that the proposal

comprised unjustified development in the countryside which would detract from the rural character of the area, highway safety and minerals policy. More recently, planning application ref. 2011/00710/FUL for the provision of 1 gypsy pitch, an area of hardstanding and a utility / day room was refused on grounds of sustainability and countryside location. The Officer's Report confirms many of our client's concerns over the proposed allocation of the site for a Gypsy & Traveller site such that the proposed allocation is considered to be 'Unsound'.

- 1.23 Furthermore, we note that the Vale of Glamorgan Borough Council submitted an objection to planning application ref. 3681 for the change of use of the site to provide a single family travellers site (submitted to South Glamorgan County Council on 18<sup>th</sup> November 1994), on the basis that the proposed development would *"intrude into the rural landscape and damage the amenity of the countryside"*. Whilst this appeal is somewhat dated the local characteristics have not changed substantially since that time so as to warrant such a proposal being acceptable.
- 1.24 The Well-being of Future Generations (Wales) Act (2015) sets out a number of 'Well-being Goals' (below) which should be considered at every level of decision making in Wales, including planning:





1.25 Having reviewed the accompanying guidance booklet ('Well-being of Future Generations (Wales) Act 2015: The Essentials'), it is not considered that the proposed allocation of Land at Llangan accords with a number of the goals set out above:

- The proposed allocation is situated some distance away from any employment opportunities and therefore is not considered to contribute to a **prosperous** Wales;
- Due to the site's location away from any settlement boundary it is not considered that the site would contribute to a **resilient** Wales, i.e. a socially, economically and ecologically resilient Wales;
- The allocation of this does not promote a **healthier** Wales given that it is not served by adequate footpath or cycle facilities such that the proposed allocation would promote the use of the private car;
- The proposed allocation would not create a more **equal** society given that the site does not integrate with existing communities and opportunities (inc. schools and employment); and
- The proposed allocation is not considered to be **cohesive** due to the site's separation from any defined settlement.

1.26 In conclusion, Llangan is not a sustainable location for a Gypsy and Traveller site and the Representations promoting sites in Llangan fail to recognise that Llangan is not a sustainable location for new development. It is considered that the Sustainability Appraisal produced by the Council to support the proposed allocation grossly overestimates the site's sustainability credentials in terms of the scoring provided. Therefore, the settlement does not meet planning policy requirements in terms of finding appropriate locations for Gypsy and Traveller sites and therefore fails Test of Soundness 1.

#### *Access*

1.27 In terms of vehicular access, paragraph 21 of Circular 30/2007 identifies that sites should be identified having regard to highways considerations. Paragraph 3.22 of the Designing Gypsy and Traveller Sites (May 2015) also confirms that sites should be located with access to public roads and footpaths leading to the site. However, little regard has been paid to highway considerations. The current pedestrian access is substandard as no footpaths or streetlights are available to ensure safe movement by pedestrians to either Llangan or Fferm Goch.

- 1.28 Further, MAC217 confirms that the Council's Highways Department advises that suitable safe access is required at the site. However, South Wales Fire and Rescue Service has confirmed that the existing road width of 2.5m would be inadequate to safely accommodate fire appliances accessing the site (see Appendix 7 of the MAC Representation (October 2016)). Any road widening works would require third party land in order to achieve the minimum road width of 3.7m required by South Wales Fire and Rescue Service. Current Land Registry information indicates that this land is either unregistered or within private ownership therefore it has not been adequately demonstrated by the Council that this is deliverable.
- 1.29 Land at Llangan is therefore considered to be an inappropriate location for a Gypsy & Traveller site allocation and fails Tests of Soundness 1, 2 and 3 in that it fails to comply with both national and emerging local planning policy (Policy MD18 – Gypsy & Traveller Accommodation) and cannot be delivered.

*Special Landscape Area*

- 1.30 With regards to habitat and landscape conservation, the proposed allocation sits within a Special Landscape Area ("SLA") and, whilst this does not preclude new development, it is necessary to demonstrate that any proposed development will not impact negatively on the SLA. However, the assessment of the site within the Gypsy and Travellers Site Assessment Background Paper incorrectly identifies that the site is not within a Special Landscape Area. In this regard, no assessment has been undertaken to confirm that the proposed development can be accommodated at the site without causing detrimental harm to the SLA.

*Conservation Area*

- 1.31 The Llangan Conservation Area Appraisal and Management Plan (March 2009) confirms that a 'Significant View' stretches from Mount Pleasant Farm to the east across Oakfield beyond which lies the proposed Gypsy & Traveller site at Llangan. The impact of the proposed allocation of this site on the Llangan Conservation Area has not been properly assessed as the Llangan Conservation Area is not recognised in the accompanying Sustainability Appraisal produced by the Council in response to the Inspector's Action Points. The proposed allocation at Llangan is therefore considered 'Unsound' in that it fails to comply with national planning policy (paragraph 4.4.3 of PPW).

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

1.32 As confirmed within the Representations by Llangan Action to the MAC consultation in October 2016, there are considered to be significant constraints which render the site undeliverable, as set out below.

*Legal Background*

1.33 In December 1994, South Glamorgan County Council granted planning permission for the change of use of the site to provide a single family travellers site (LPA ref. 3681). However, on 27<sup>th</sup> November 1997, the High Court quashed the planning permission at the site and eviction proceedings were commenced against the occupiers of the site. Eviction proceedings were adjourned pending the outcome of an appeal. This application was refused by the Court of Appeal on 16<sup>th</sup> February 1998. Planning application ref. 3681 was subsequently refused at Planning Committee on 25<sup>th</sup> March 1998.

1.34 The Council then began legal proceedings against the occupiers of the site to repossess the site and a hearing was due to take place on 15<sup>th</sup> September 1998. However, the occupiers' legal representatives applied for leave to bring further Judicial Review proceedings challenging the reasonableness of the Council's decision to evict the occupiers in the absence of a suitable site to which they could relocate.

1.35 A report was presented to the Vale of Glamorgan Council meeting on 28<sup>th</sup> October 1998 which summarises the above history and confirms that in May 1996, a legal undertaking was given by the Council to local residents that the Council would use all lawful endeavours to remove the occupiers from the Llangan site. Crucially, paragraph 3.1 of the 1998 report confirms that the Council should continue to review sites as they become available and upon any such site being suitable for the occupiers should require them to take up the site and vacate the Llangan site.

1.36 Our client has sought a legal opinion on this matter and has concluded that the above undertaking was not subject to any end date and therefore is still considered to be in force. Accordingly, the proposed allocation of Land at Llangan for a Gypsy & Traveller site is considered to breach the requirements of the aforementioned undertaking in that it cannot be argued that the Council is making "*all lawful endeavours*" to remove the occupiers of the site. The proposed allocation at Llangan should therefore be deleted on the grounds that it fails Tests of Soundness 2 and 3 in that the rationale behind plan

policies cannot be demonstrated; 'real' alternatives have not been properly considered; it is not logical, reasonable and balanced; and is not deliverable.

#### **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?**

1.37 No comment.

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

1.38 No, the policy is not in accordance with paragraph 9.2.21 of PPW and the plan should identify a suitable site which can accommodate all of the identified need.

#### **6. Any Other Matters**

1.39 Llangan is not considered to be a sustainable or suitable location for a Gypsy and Traveller site for the following reasons:

- The limited local facilities available;
- The limited provision of public transport;
- Does not constitute making "*all lawful endeavours*" to remove the current occupiers of the site in accordance with the legal undertaking at the site and therefore is undeliverable;
- Vehicular access to the site is considered inadequate in terms of road widths and visibility;
- The settlement does not promote sustainable access to employment, shopping, education, health, community, leisure and sports facilities;
- An assessment of the proposed allocation on Llangan Conservation Area has not been undertaken;
- An assessment of the proposed allocation on the Special Landscape Area has not been undertaken;
- The settlement does not maximise opportunities for community development and social welfare due to its size;

- The settlement does not foster social inclusion due to the isolated location of the settlement; and
- The settlement does not contribute to improvements in health due to the isolation from services and facilities.

1.40 Both the previous de-allocation of the site by the Council and the site's planning history confirm that the proposed allocation via MAC50 is not 'Sound' and the Council should identify an alternative site to meet the identified need.

1.41 In light of the above, the Vale of Glamorgan Council should seek an alternative site to meet the identified need for Gypsy & Traveller pitches within the Authority. Whilst the 2013 Gypsy & Traveller Site Assessment confirms that "several of the 36 sites investigated could physically accommodate the need of 18 Gypsy and Traveller pitches...these sites are constrained by ownership or management issues, have alternative or preferable uses or had been developed to provide community facilities", the Llangan site is considered inappropriate and unsustainable. It is therefore considered that in order to make the Plan 'Sound', the Council should seek to allocate an alternative site for the provision of the identified need for Gypsy & Traveller pitches.

