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MM Consultation 2021

Planning Policy

Epping Forest District Council Civic Offices

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Dear Sir/ Madam

Epping Forest Main Modification consultation

Gypsy Traveller policy

MM12, MM15, MM32, MM211,MM215, Trajectory of Travellers' provision

I wish to comment on the Gypsy Traveller policies as a Planning Consultant who has had involvement with numerous Gypsy Traveller appeals/ applications in Epping Forest since 2008 and remain involved with current appeals and other cases.

MM12 Table 2.4

Having studied the 2016 GTAA I struggle to understand how or why the number of pitches 2011-2033 is still stated as 64 pitches and 1 yard and why this has not been reviewed and refreshed whilst the Local Plan has completed its examination process. At the very least this should make clear that this is a minimum figure as stated in MM15.

Having studied the evidence this figure appears to be made up of

24 pitches meeting PPTS definition 2016-2033

16 pitches granted 2011-2016 (additional to the ORS assessment)

4 pitches for unknown households (the minimum figure suggested in the GTAA)

20 pitches for omitted unauthorised pitches (listed in EB402A)

This figure fails to have regard to further information available to the Council. For reasons explained below I consider that this figure will fail to deliver the identified need and if this is agreed the Local plan should make clear that an early review of Traveller need is essential and should be carried out within the first year post adoption. The reasons for this are three fold:

1. The 2017 GTAA by ORS made clear that it was subject to several limitations:

i) survey work was done May-August 2016 when many households would be away travelling. No further survey work has been commissioned to improve on this.

ii) the response rate was very low with just 38 interviews out of 157 pitches/ yards. Of 157 pitches, 9 were on showpeople yards. Of the remaining 148 pitches believed to be occupied by Gypsy Travellers only 37 interviews were conducted (25%). On the remaining 110 pitches 14 were occupied by non Travellers, 7 were vacant and 12 were unimplemented (total of 33) leaving a balance of 77 pitches whose needs could not be determined. I have seen no follow up study to account for why 33 Traveller pitches were unavailable and what has become of these pitches.

iii) ORS assumed that only 10% of unknown households would comply with the PPTS Traveller definition even though this is much lower than the 40% of those interviewed in Epping (15 of 37). At appeals Planning Inspectors have been critical of this approach and have queried by the compliance rate for unknowns should not match that of those interviewed. At para 5.20 ORS state that it would not be appropriate to make any firm assumptions about whether or not households where an interview was not completed meet the planning definition. If they applied their assumed rate of 10% of households meeting the planning definition this would give rise to a need for just 4 additional pitches in Epping from 77 unknown pitches. That is the figure favoured by Epping Council and included in Table 2.4. It is the lowest possible estimate. However at para 5.23 ORS advise as follows:

'Should further information be made available to the Council that will allow for the planning definition to be applied to unknown households, the overall level of need could rise by up to 5 from unauthorised pitches, by up to 14 from temporary pitches, and by up to 22 from new household formation..'

This would give a need for a minimum of 41 pitches, plus any concealed households or 5 year need arising from teenagers living in these households. It is clear that ORS expected and anticipated Epping Forest Council to monitor the outcome of windfall applications to update the assumptions on which this GTAA was based.

All sites in Epping Forest are in the Green Belt as a result of which, many planning permissions are granted with a personal condition. If ORS had studied the planning history for many of the unknown sites they would have been aware that the Gypsy Traveller status of site occupants was accepted by the Council.

2. ORS have had to refine their methodology since 2017 as their interpretation of the PPTS definition has not been accepted at most planning appeals. Having closer regard to supporting information from planning applications/ appeal decisions more recent studies now appear to accept that Travelling can be for an economic purpose not just for work, and can include attendance at the traditional Horse Fairs. This is the approach taken by Planning Inspectors at Appeals for windfall planning applications/ enforcement appeals. Their original assumption that only 10% of Travellers comply with the PPTS definition has been steadily raised to 30%. However, as noted above, in authorities such as Epping Forest and elsewhere it has been found to be closer to 100% for applications/ appeals.
3. At the EIP for the neighbouring authority of the LB Havering the EIP Inspectors required ORS to carry out additional household interviews as the original assessment was not considered robust or credible. This led to an increase in pitch need from 33 to a minimum of 220 pitches. I would be most surprised if Epping Forest Council were not aware of this.

It is difficult to comprehend that the Epping Forest Local Plan is about to be adopted based on an out of date assessment with a data baseline of September 2016 using a methodology which others have questioned, has not been found to be very robust and which the Council has failed to review and refresh with the benefit of further information as advised to do so. Epping Forest Council has been made aware of these concerns by myself and other Planning Consultants. Of particular concern is the approach taken to the treatment of the large number of households whose needs were not ascertained as they were not interviewed. It is now 4 years since the ORS final report was published. Further information is now available and the outcome of the 2017 Study should have been reviewed and revised as advised at para 5.23 of the GTAA.

The assumption by ORS that only 10% of unknown households are likely to comply with the PPTS Traveller definition does not sit easily with decisions taken post September 2016 (see EB402a). 23 of the 77 unknown households identified by ORS were on 14 sites with unauthorised or temporary permissions. MM12 confirms that 17 pitches have been granted planning permission 2016-2020. These comprise the list EB402A for 16 plus one other. The table of 'Trajectory of Travellers' provision' confirms that the additional pitch granted is for a site at

Ashview Hamlet Hill. This is incorrect. I am the agent for this site and can confirm that in December 2019 Council Members rejected the recommendation of officers to grant permanent consent for this allocated site (LPA ref EPF/1712/19) and only granted permission on a temporary basis for a further 12 months despite claiming that they gave full weight to their emerging Local Plan.

The proposed amendment for MM12 Table 2.4 is incorrect and the associated Trajectory Table also needs to be corrected.

The 16 pitches in EB402A were granted on 8 sites all of which were existing in 2016.

2 were existing private sites (Hallmead, Woodside),

2 were unauthorised(Greenacres and Sunnyside)

4 had Temporary permissions (Devoncott,Haslingfield,Auburnville,Steers Pigstye

ORS failed to carry out any interviews on any of these sites.

In addition, the allocated site at Ashview was granted temporary consent in 2019 for 12 months for 2 households and was also listed as a site with temporary permission in Fig 1 of the GTAA .

No issue has been taken by the council with the Traveller status on any of these 9 sites .

According to the 2017 GTAA by ORS no interviews were possible on any of these 9 sites as no contact was possible. Yet prior to the finalisation of the GTAA in September 2017 not only had applications/ appeals been submitted and determined for 8 of these sites, but planning permission had been granted for Travellers meeting the PPTS definition for up to 16 pitches.

Clearly the Council had been given sufficient information to be satisfied as to the Traveller status of those occupying/ intending to occupy these pitches. In 2019 permission was granted for 2 households at Ashview, once again with full acceptance of the Gypsy status of the site occupants. Yet no one thought to refresh the assumptions made by ORS in the evidence base for the Local Plan or update this during the course of the local plan Examination.

In addition I am aware of appeals pending for another 5 of the sites where ORS failed to carry out interviews which were temporary / unauthorised (38,21a and 5-6 Roydon Chalet Lodge, Rose Farm, Sedgigate Nursery and Valley View) for a total of 16 pitches. Once again no issue has been taken by Epping Forest Council with the Gypsy Traveller status of any of the Appellants for these appeals. Two further sites at Ashview (referred to above) and Curtis Mill Lane remain unauthorised but the Council has never taken issue with the Gypsy Traveller status of the owner/ occupiers of these sites.

The Council has also produced a list of 8 unauthorised sites with a further 16 pitches omitted from the ORS study (EB402a Table 2). All of these are at appeal with a total of 16 pitches under consideration. Once again the Council has not taken issue with the Traveller status of any of the occupiers of these pitches and once again the Council has failed to review/ refresh the assumptions relied on in the evidence base for their Local Plan. This list is infact incomplete. In 2018 Enforcement Notices were served on chalet plots 7,29,30-30a, 32 and 33-34 Roydon Lodge Chalet Estate and these are all the subject of current appeals for Traveller pitches. Other plots are also occupied by Travellers without permission on this chalet estate.

Whilst ORS were unable to establish the Traveller status of those occupying some 77 pitches, the Council has not disputed the Traveller status of any household occupying sites the subject of applications/ appeals determined/ pending since 2016, some of which were included in the list of sites known to exist in September 2016.

The evidence base for the Local Plan has not been adjusted to reflect the evidence that 100% of households applying for permission/ appeals have been found to meet the PPTS definition.

If, as claimed in the 2017 GTAA, only 10% of unknown Travellers are likely to comply with the PPTS Traveller definition, one might have expected 90% of applications/ appeals to be refused/ dismissed for failing to comply with the Traveller definition. To date, I am not aware of a single application/ appeal where Epping Forest has taken issue with the Traveller status of occupants of pitches in this district. Indeed, the compliance rate for those seeking permission is 100%.

In my view this must cast doubt on the way in which

A)ORS assessed the PPTS definition and restricted this to travelling for work which excludes most trips to Fairs which can have an economic purpose , AND

B) the assumption by ORS in 2017 that very few unknown households would comply with the PPTS definition.

However one must also question why Epping Forest accepted these findings without question given the manner in which this matter was assessed by Planning Inspectors and then failed to review and revise their need assessment as and when further information came forward to challenge the findings/ assumptions on which this study was based.

Even if the ORS study were found to be credible and robust,it is not clear from the Epping Forest Local Plan what provision, if any, is to be made as part of housing allocations, for those with a cultural need but were considered by ORS to not meet the PPTS need. Those households not found to meet the planning definition (which at present should include the need for a minimum of

37 pitches for unknown households and 4 pitches for those who were found to not comply with the PPTS definition) should have their needs provided as part of the wider housing needs of the district. This does not of course mean that they should be allocated bricks and mortar type housing. They will also need a suitable supply of caravans sites to meet their needs. I am unclear what provision this local plan makes to address this need.

MM15 amend part D of policy SP2

The reference to the fact the Local Plan will provide a MINIMUM of 64 pitches 2011-2033 is supported but as noted above it is considered that the figure of 64 pitches greatly underestimates the real need and should read at least 101 to include a minimum need for 37 additional pitches (41-4) for unknown households most of whom have since been found to comply with the PPTS definition.

MM32 Policy H4 Remove size limit for Traveller Sites

This is not supported because

- a) there is no agreed definition of a pitch and if no minimum area is specified there is a risk developers will not ensure adequate space is provided to meet the need identified and will argue that sub standard, small pitch sizes will suffice. I estimate that at least 600 sq m is needed for an average family pitch plus additional space for internal access roads/ turning heads, space for shared package treatment plants, shared amenity space, buffer to adjoining land uses and landscaping. Policy should retain the site area of 0.5 hectares to ensure adequate space is made available by developers to meet this need.
- b) The proposed wording leaves open the option that less than 5 pitches are provided and this is more likely if insufficient land is set aside in Masterplans to ensure this need is met.
- c) It is far from clear what special justification would be necessary to justify more pitches and how this will be achieved if not specified when the Local Plan is adopted.

MM211 RUR.T4 Curtis Mill Lane

This site is existing. It has been occupied since at least 2013. The 2014 appeal was called in by the SoS and the Inspector's recommendation overturned in one of many Traveller decisions taken at that time by the Rt Hon Pickles MP who was later found to have acted unlawfully in the way he singled out Traveller cases in the Green Belt so that he could dismiss them. If there is any possibility the site could have an unacceptable impact on sites of ecological importance it should not be included as an allocation. As no such issue was taken by the Council or Natural England with a site at White Rose on the opposite side of Curtis Mill Lane when this was taken to appeal and granted permission in 2020 (the decision was then successfully challenged by the

Council due to the failure of the Inspector to factor in the Epping Forest issue even though this was not raised by the Council as an issue of concern), it is far from clear what justification exists to raise this issue now.

MM215 RUR T2 Ashview Hamlet Hill

This site should not be deleted. Whilst it has been occupied for in excess of 20 years by Mr Joe Smith and his adult son Terry Smith, it has still not been granted permanent permission. In 2015 temporary permission was granted for two named households in 3 caravans on a temporary basis. In 2019 this was renewed for a further 12 months as, although the Council claimed to attach significant weight to allocated sites, it was unwilling to approve consent on a permanent basis until the Submitted Local Plan was passed and the land formally recognised as an allocated site.

Trajectory for Travellers' Provision

The Trajectory should be corrected and RUR. T2 (Ashview Hamlet Hill) reinstated as this has not been granted permanent consent.

Even though the Trajectory has been adjusted by 2 years to take account the slippage in adopting the Local Plan I have to question whether it is realistic to presume 10 pitches will be delivered at Latton Priory and North Weald Bassett during the period 2019/20-2023/24 as to date no Masterplans appear to have been published/ agreed for both of these allocations. Once the Masterplans are approved it is anticipated that outline planning permission will be sought which is likely to be subject to legal agreements. Reserved matters applications would then follow, and possibly also applications to discharge conditions. The development would then be implemented in phases. Policy fails to specify any phasing for the delivery of Traveller pitches as part of these Strategic Housing Allocations. From experience elsewhere I consider it doubtful any developer would prioritise this provision within the first or any early phase of development. It is more likely that most will hold out until the final phase of any development in the hope the site is no longer needed and the land can be reused for another land use. In my view it could be 5-10 years before there is any likelihood of Traveller pitches being delivered as part of any strategic housing allocation.

Summary and suggested changes

It is of concern to note that the Council relies on a GTAA with a baseline of 2016. It has failed to review and refresh the findings as advised to do so in the GTAA, given the additional information now available and submitted by EFDC. It has chosen to overlook the fact that ORS has had to refine the methodology relied on in 2017 and have been required elsewhere (eg neighbouring

London Borough of Havering) to carry out more interviews to ensure the study is robust. It has ignored warnings from Planning Consultants that the SVLP is not robust or credible and the local plan fails to allocate sufficient pitches to address the need which the 2017 GTAA failed to identify.

The Submission Local Plan greatly underestimates the real need for more Traveller pitches in this district. The SVLP allocates insufficient pitches to address this need and meet the immediate need for pitches. The on-going, historic failure of this Council to allocate land to meet the need for Travellers will be perpetuated until 2033 if the plan, as submitted, is adopted. As such the Submission version of the Local Plan fails to comply with guidance in PPTS (paras 4a, 4b, 4g, 4h, 7c, 10a, 10b).

The 2017 GTAA is in need of urgent updating and the adopted Local Plan should require that this is done within a year of adoption of the Local Plan.

Table 2.4 (MM12) should make clear the figure of 64 pitches and 1 yard is a minimum figure. If full allowance was made for unknown households, many of whom have demonstrated they comply with the PPTS definition, this would add potentially at least another 37 pitches to this figure.

The figure of 17 pitches delivered 2016-2020 is wrong. Only 16 permanent pitches have been granted. The site at Ashview was only granted consent on a temporary basis of 12 months in December 2019.

MM32 Policy H4 pitch size is not accepted. There is a need to retain reference to the need to allocated at least 0.5ha for 5 proper sized pitches on allocated sites to ensure sufficient space is retained for this use.

MM211 RUR.T4 flags up issues with an allocated Traveller site which have not previously been considered. Sites should not be allocated if there are doubts as to their suitability.

MM215 RUR. T2 –this amendment should be deleted. The site at Ashview Hamlet Hill is occupied, but still does not benefit from full planning permission as Members failed to accept the advice of officers in December 2019. The Council has made clear it does not intend to remove allocated Traveller sites from the Green Belt and will rely instead on allocation status to justify the very special circumstances needed for inappropriate development in the Green Belt. If this, or any other allocation which is already occupied/ in place, is removed, that special justification will no longer apply.

The Trajectory for Travellers' provision needs to be corrected and careful consideration given to the number of pitches at Ashview as well as the timing of the delivery of pitches on strategic housing sites the subject of Masterplans

If I can assist further please do not hesitate to contact me.

Yours faithfully

Mrs Alison Heine