

**COMMENTS ON DMP REG 19
TRAVELLER SITE LAND AVAILABILITY ASSESSMENT**

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1. My comments are restricted to consideration of Gypsy and Travellers. I have no direct knowledge of provision for Travelling Showmen but am aware that families from this district have been displaced due to the shortage of sites and chronic overcrowding on existing plot at Fairacres and had to relocate to Bromley (see 3.12.2014 appeal decision for site at junction of Sheepbarn Lane and Layhams Road for the Reid family).

2. The TSLAA is welcomed in so far as it allocates land to meet some of the need for more Gypsy-Traveller sites in the district. But, concern is expressed in respect of

- 1-Lack of commitment to this document
- 2-Late submission of this document
- 3-The 2017 Need assessment to inform the site allocation process
- 4-Issues with the TSLAA
- 5-Proposed changes

3. It is argued that the TSLAA should not be found sound as it is

1-not informed by a reliable and robust evidence base and there is no proper justification for the reduced level of need now relied on.

2-fails to meet the identified need for more Gypsy-Traveller pitches in this Borough

3-is not compliant with the requirements in PPTS para 10 to identify a supply of specific deliverable sites to provide a 5 year supply.

4- there is no evidence of any meaningful engagement with the Traveller community in the preparation of this strategy and proposed reliance on Sustainable Urban Extensions to meet future need. This study is too little too late.

I suggest some changes which I think need to be given serious consideration.

1. Lack of Commitment

4. This concern relates specifically to the proposed allocation of land at Kents Field, Rectory Lane.

5. In February 2017 the Council served 2 Enforcement Notices concerning use of land at Kents Field for caravans. They withdrew these notices on 8 December 2017 as they realised they lacked sufficient clarity. However they immediately reissued another Enforcement Notice dated 8 December 2017 concerning caravans on the land. This notice also lacks clarity but the Council failed to respond to my concerns and it has also been appealed.

6. On 3rd April 2017 the Council refused permission for 2 pitches on the land now proposed as an allocation at Kents Field ie for the same development.

7. In January 2018 the Council spent two days at a Planning Inquiry trying to defend its reason for refusing permission for two additional pitches at Kents Fields-one of the proposed allocated sites.

8. It is not known when work started on the TSLAA but it is clear from the delegated report prepared for the Kents Field application refused April 2017 that work had already started before permission for these 2 additional pitches were refused. Even if the Council did not know in April 2017 that this site would be promoted as an allocated site, it did know this when the TSLAA was reported to their Executive Committee on 9/11/2017 and approved for Reg 19 consultation and submission. Yet the Council failed, inexplicably, to adjourn the Planning Inquiry scheduled in late January 2018 and chose instead to still contest the suitability of this site at Kents Field for 2 pitches over a 2 day Planning Inquiry on 30-31 January 2018. Such action does not fill one with any confidence that they are truly committed to their own TSLAA or its findings.

2.Late submission of TSLAA

9. This is the first consultation exercise for this document. It is far from clear why this issue was not addressed sooner as part of the local plan process. I take exception to the fact the first opportunity to comments is at the Reg 19 stage. There is no opportunity for the Council to take these comments on board, make changes or revise ideas before the EIP. This is most unsatisfactory. If there are serious issues with the proposals this could put the local plan process at risk and/ or jeopardise the chance of the TSLAA being adopted as part of the DMP process. There has been historic failure of this Council to address the needs of Gypsy Travellers in accordance with the Caravan sites Act 1968, the aim of Surrey Council to provide 30 family pitches in the Borough in the 1994 Reigate Banstead Borough Local Plan, Housing Act 2004, C 1/2006, PPTS/ NPPF 2012, their own 2013 GTAA and 2014 Core Strategy policy. It is essential sites are allocated to meet the pressing and immediate need in this Borough. Indeed it is quite shocking that a need recognised back in 1994 has not been addressed until late 2017 at the earliest- a gap of 23 years. A whole generation of Gypsy Travellers have grown up since then.

3.2017 Need Assessment

10. Issue is taken with this study and its robustness because of the following reasons:

a) This is the first opportunity to consider this evidence base. It was not published until July 2017.

b) The study fails to appraise the 2013 need assessment which was carried out by the Council. The 2017 study, with a baseline of March 2016 – which is just 3 years later than the Council's own appraisal, fails to even comment on the methodology relied or attempt to analyse and quantify developments since 2013. Yet the 2017 study seeks to significantly reduce overall need for reasons listed in para 7.44. The 2013 GTAA identified a need for 52 additional pitches 2012-27. The 2017 study reduces this to just 32 additional pitches over a comparable 15 year period. The justification for this is

- a. Lower concealed households
- b. Short term need
- c. Lower rates of household formation (2% not 3%)

It is astonishing that such a huge reduction is accepted without question. If ORS had predicted an increase of a similar magnitude I very much doubt Reigate and Banstead would have accepted this without decent explanation. I remain highly suspicious that

two studies could have such differing conclusions based on data just 3 years apart. As noted below the interview rate for the 2017 study is very low and the findings could be skewed by the failure to contact most households. Unlike the 2013 study there is no desk top study of applications / appeals current and determined. Indeed ORS makes no mention of this crucial source of information. As there is no attempt to analysis the 2013 assessment ORS are in no position to claim their assessment is more accurate or robust. In 2013 the Council identified a need for 12 pitches arising from overcrowding. In 2017 ORS identified no need from this source in Fig 6 or Fig 8. Yet one of the most obvious reasons for the appeal for additional pitches at Kents Field in January 2018 was the issue with overcrowding on this site. At least 3 adult children were having to live with partners and young families in the touring caravans on site. It must be obvious to the Council that the 2017 assessment of concealed households/doubling up/overcrowding was flawed. We were also told how families had been displaced and moved elsewhere to Bromley and Croydon due to the failure to make any provision in this district. In the absence of any proper analysis there is also no way of knowing if the lower household formation rate elected by ORS is, in this situation, justified. The ORS study makes no allowance for in migration. They point out that all families in the Borough are Irish Travellers and fail to account for the needs of the Jones family at Masons Bridge Road Redhill whose needs were not considered and is, one presumes, a newly arrived family.

In the absence of any proper analysis or detailed explanation I would be very wary of the predicted need and why, in such a short period of time, it has fallen from 52 (2013) to 32 (2017) households-when nationally the trend for sites continues to rise. It has never been the case for the Council that their 2013 assessment was unrealistically high. I find it quite shocking that the Council has accepted this without question.

c) There appear to be some discrepancies with some of the tables. It does not help that ORS routinely do not total up their figures. For example, The total number of sites is listed in para 4.7 and Fig 3. This lists 14 unauthorised pitches on 6 sites. Yet Fig 6 and 8 which summarise the need for those with/ without planning definition identify households on unauthorised sites yielding 5 and 6 pitches ie a total of just 11 – shortfall of 3. It is also not clear to me just how many Gypsy Traveller were interviewed. Fig 4 indicates that only 10 interviews were completed for sites but Fig 5 suggests that a total of 22 households were interviewed on sites. Para 6.7 state that 7 interviews were conducted with Travellers in bricks and mortar yet 7.3 states that 9 interviews were carried out with Gypsy and Traveller house holds living in bricks and mortar yet . A full summary of the overall findings from the household interviews can be found in Appendix C. This refers to 11 respondents. I have no idea what the sample size was for this study. I am doubting if ORS does either. There are other discrepancies. Apparent discrepancies such as this does not fill one with confidence that this is a robust study or that it has been properly proof read before publication.

d) The rate of interviews on Gypsy Traveller sites is very poor (see Fig 4). ORS only interviewed 10 of the 24 identified Gypsy Traveller pitches-42%. The 2013 Council study interviewed 85% of households (table 3) and used interviewers from FFT- a well respected organisation. Interviews were carried out over a longer period in 2013 to

increase response rates. Given the low interview rate for the 2017 study, this can not be considered a robust and extrapolating findings from this low interview rate is troubling. With such a small population it should have been possible to achieve near 100% interview rates. The Council should have questioned why the interview rate is so poor compared with their own study in 2013. I note for instance, ORS failed to interview any one at Acre Stables Haroldslea. My clients occupy this unauthorised site. This is where they live and keep their stables. They go away to horse fairs by ORS are supposed to conduct studies to avoid the traditional horse fair circuit. I contacted them to check if there was any reason they would not have been around during this period. My clients can recall no letter or phone call from the Council or ORS seeking an interview. An application for this site was made by myself in May 2015. Their children attend school locally and they go away to horse fairs but the first trip is usually Stowe late May and Appleby in early June. I chased the case officer for an update in November 2016 and again in December 2017 when I expressed concern that they had not been interviewed. I have received no reply to my last email . No one asked me for a contact number. Although ORS make out that they try hard to contact local families they seem reluctant to involve Planning Agents working with local families and for this reason I am not satisfied that ORS made proper and sufficient efforts to contact this family (and possibly others) for purposes of getting more interviews.

e) The baseline for the study is March 2016 but it was not published until July 2017. No explanation is given for this delay. But where such delays occur local authorities should update the information. There is no consideration in the report of the site at Masons Bridge Road where enforcement action was taken November 2016. The enforcement notices were appealed and permanent consent granted January 2018. No issue was taken with the Gypsy status of the Appellant. This need is additional to that assessed in the ORS report. I do not consider a report that omits a key site in the Borough to be robust and such omissions make you wonder who else has been overlooked.

f) Issue is also taken with the ORS approach to the new Planning definition. According to Fig 5, of the 22 Gypsy and Travellers interviewed (including 9 in bricks and mortar), only 6 met the definition. This included just 1 household on a private site. This is puzzling. At the Planning Inquiry in January 2018 for 2 additional pitches for family live at Kents Field the Council did not take issue with the Gypsy Traveller status of the two Appellants/ additional households or the 3 households living at Kents Field. Indeed the Inquiry heard from Mrs Connors how the touring caravans on site were used to go travelling in and how this caused overcrowding in the remaining mobile homes when those living in those touring caravans had to decamp into the mobile homes so that the (usually) men had touring vans to go travelling in. Nor was issue taken with the Gypsy Traveller status of Caleb Jones in the January 2018 appeal decision for a site at Masons Bridge Road.

At para 2.20 ORS refer to the well-known authority of Dunn:

^{2.14} In *Maidstone BC v Secretary of State for the Environment and Dunn (2006)*, it was held that a Romany Gypsy who bred horses and travelled to horse fairs at Appleby, Stow-in-the-Wold and the New Forest, where he bought and sold horses, and who remained away from his permanent site for up to two months of the year, at least partly in connection with this traditional Gypsy activity, was entitled to be accorded Gypsy status.

However, if you turn to the questionnaire appended to the ORS study at F3 they differentiate between travelling for work or fairs. No explanation is given for this or how this approach squares with the authorities relied on in section 2 of their report. If Mr Dunn had been asked this question he would have most likely ticked the “Fairs” box. However, according to paragraph 2.25 of the assessment it is clear that the ORS approach would have excluded him from being within the definition:

The implication of these rulings in terms of applying the planning definition is that it will **only include those who travel (or have ceased to travel temporarily) for work purposes and in doing so stay away from their usual place of residence**. It can include those who have a permanent site or place of residence, but that it will not include those who travel for purposes other than work – such as visiting horse fairs and visiting friends or relatives. It will **not cover** those who commute to work daily from a permanent place of residence.

This is a standard approach taken by ORS. It has been criticised many times. This is not the approach taken by the Planning Inspectorate when determining appeals for Gypsy Traveller sites. It would also appear that it is not the approach taken by this Council or they would rely on Gypsy Traveller status as grounds to reject applications. As appeal decisions are the only official guidance we have on the application of national policy it must follow that there is a fundamental misapplication of the law in the ORS assessments, as they exclude many who have a legitimate economic purpose to their travelling and who, Planning Inspectors accept have Gypsy Traveller status. If I am correct, the under-reporting of the real numbers of Gypsies and Travellers who travel for work and retain Gypsy-Traveller status has serious implications for the robustness of this and other assessments by ORS. ORS were first notified of these concerns in 2014 by myself and Professor Acton. I know that other Planning Agents have since raised similar concerns. Other firms doing need assessments take a different approach. The anomaly was exposed at one of the first Planning Appeals following examination of the Gloucs Joint Plan where the Inspector acknowledged that the approach taken by ORS was questionable in late 2017 and was not matched by the approach taken by Tewkesbury Council (who had the largest concentration of Travellers in the joint planning area). It is of real concern that ORS seem reluctant to modify their approach and continue to base their assessment on the flawed results they have achieved, quoting that fewer than 10% of all Travellers meet the PPTS definition and non in some Gt London Council.

ORS fail to appreciate that most Travellers will network and do deals where ever they are-whether that is at weddings, funerals, christenings, conventions or fairs. They are constantly looking to buy and sell anything to make money and will often do deals on their own vehicles and caravans if some one is willing to pay them a good price. As noted above, para 2.25 confirms that ORS do not treat trips to fairs as work related. No explanation is given for this. It is hardly surprising ORS consistently report that very few

households meet the definition in PPTS. Fairs and Christian Conventions are often the only destinations that can offer Travellers some where to stay that is safe and free from eviction. I struggle to understand how ORS accept trips to fairs are work for showmen but cultural for Travellers.

4. Issues with TSLAA Site Assessment

11. There are several issues with the TSLAA

1-It fails to consider all known site. There is no consideration of the site at Acres Stables, Haroldslea, Horley. A retrospective application for a Gypsy Traveller site on this land was made 8.5.2015 (Ipa ref15/0109/cu). The Council seem reluctant to process this application. The merits of this site should be considered as it is understood to be in the same area as, and close to the two sites recommended for allocation at Peeks Brook Lane Horley.

2-The Green Belt review of the short listed sites at Section 5 requires further explanation. The Council seek to assess the impact upon the Green Belt. The scale appears to grade sites against possible impacts as lower, moderate or higher importance. There is no 'nil' classification. It is clear that for most sites there is nil impact when it comes to issues with urban sprawl, preventing towns merging, preserving the setting of historic towns or assisting urban regeneration as the proposals are so small and/ or are not part of or on the edge of an urban area, are not located close to any historic town and the Council has already conceded that there are no urban sites suitable for re use as a Gypsy Traveller site.

3- The Proposed site allocations will not address the reduced need identified in the 2017 GTAA. Provision is only proposed for 8 Gypsy and Traveller pitches on 3 sites leaving a shortfall of 15 pitches against the (reduced) 5 year supply of 23 pitches. The provision of 8 pitches will not even meet the identified immediate need of 12 pitches 2016-21 for those meeting the planning definition and 6 pitches for those assessed to not meet the planning definition (using the ORS method). There is a pressing need to find more pitches to meet the immediate need for Gypsy Traveller pitches in this district. It is far from clear how this shortfall will be met. It is wholly unacceptable that this Authority is still failing to address the need of families living in this Borough.

4-The reliance on Sustainable Urban Extensions for future provision offers no certainty. There is little precedent to support this. This particular approach to site provision is not one that is set out in *the Framework* or in the *Planning Policy for Traveller Sites*. In other parts of the country such allocations are proving controversial as house builders claim they can not secure finance for such development due to the inclusion of Gypsy Traveller site allocations. It is not clear what mechanism exists to ensure delivery or how the sites will be managed. It is of concern that the assessment at para 5.15 seems to be based more on what is financially viable for housebuilder rather than consider what is socially acceptable and desirable for Gypsy Travellers. Indeed there is no evidence the Council has considered if this would be appropriate or welcomed by Gypsy Travellers. It is evident that there is a need for additional gypsy and traveller site provision in the Borough. However there is no discussion as to where it should be met.

As a result it has not been established that SUEs as proposed would be an appropriate location for additional gypsy site provision.

The suggestion that there is a requirement for only 1 pitch per 70 homes means that at 5 of the SUEs only one pitch would be provided. This is contrary to the Green Belt allocations where it is proposed to provide sites with multiples of pitches and at Kents Field as an extension of an existing site. Gypsy Traveller sites usually include several pitches so that families can live together in small family groups or as extended families. The 2017 need assessment confirms that all those interviewed were Irish Travellers. They tend to have large families and live as extended family groups. There is uncertainty as to whether a single pitch would address the need or prove attractive to would-be occupiers. If the men are away travelling they like to know their wives and children are not alone at home. This arrangement would provide for little/ no opportunity for future household formation. I suggest that provision should be made for sites with at least 3 pitches and preferably for 3-5 pitches. But first the views of Gypsy Travellers need to be sought and we need to be clear if this option is viable and capable of being delivered.

Consequently there is uncertainty as to whether a policy which seeks to deliver single pitches as part of future SUEs would address the need or prove attractive to would-be occupiers. I do not believe that there is sufficient evidence to support any justification for this policy option and do not believe it will serve to make up the identified shortfall in site provision

4- Given the appalling historic failure of this district to make any provision for Gypsy Travellers it is essential that:

- full provision is made and that this is front loaded to address the immediate need
- a buffer of at least 5% is added to take account of the shortfall of historic completions and likelihood that it will be impossible to find windfall sites that are not in the Green Belt.

5- At Kents Field it is proposed to allocate only part of the site and this does not include the existing site. Given the acknowledged shortfall in provision across the Borough and in the knowledge the Connors family will have need for further pitches, it is unclear why the Council only chose to allocate a small part of this existing holding. Scope exists to allocate a larger area for more caravans. The access road and internal drive way are not included in the allocation site. Any future application to secure permission for this allocated site will still include land that is in the Green Belt. It is unclear why more of the site, including the existing authorised site for 3 pitches, is not allocated to ensure that any future application for additional pitches or alterations to the existing approved site are not deemed inappropriate development in the Green Belt. The same would apply to other sites including Fairacres. The whole of these sites (existing and allocated sections) should be allocated and taken out the Green Belt so that future applications are not impeded by Green Belt policy issues.

Changes to be made

1-The assessment of need finalised July 2017 should be taken as a minimum figure not, as the Council claim as 'up to 32' pitches due to

a)the need to provide a buffer for historic failure to implement previous need assessments,

b) the absence of any proper explanation why the 2013 study by the Council should not be relied on,

c) issues with the robustness of the approach taken.

d) inconsistencies/ possible inaccuracies in the report itself which are not explained.

2- There is a need for more allocations to meet the immediate need for Gypsy Traveller pitches. Given the acknowledgement by the Council that there is no possibility of finding suitable sites that are not in the Green Belt, it is unrealistic to expect that future needs will be met from windfalls. More must be done to identify suitable sites to provide families with certainty as to how future needs will be met.

3- The allocation at Kents Field, Rectory Lane should be for at least 3 additional pitches to meet immediate need but could be increased to at least 5-6 additional pitches if the stable yard and sand school areas were taken into consideration.

4- The suitability of the existing unauthorised site at Acres Stables, Haroldslea, Horley should be considered as a possible allocation if the Council does not get round to determining the application made almost 2 years ago for this site. There is no justification to treat this site any differently to the allocations on nearby Peeks Brook Lane.

5.- All of allocated sites should be removed from the Green Belt and not just parts of sites.

6- The appropriateness of the SUE policy needs careful consideration before it is relied on to address the future needs of Gypsy Travellers.

Attachment

Jan 2018 appeal decision