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HEINE PLANNING**

Is the approach to providing sites and pitches for Gypsies and Travellers consistent with up to date national planning policy

Swale Local Plan-Part 1 Examination

1. Up to date national planning policy is found in PPTS, NPPF and Planning Practice Guidance. The relevant sections are as follows:

PPTS

i) It is a requirement of para 4a(PPTS) that LPAs should make their own assessment of need for the purposes of planning.

ii) In assembling the evidence base necessary to support their planning approach, LPAs should, according to Policy A

para 7a PPTS have discussions with Travellers and their representative bodies/ support groups to discuss Travellers' accommodation needs.

Para 7b co operate with Travellers and their representative to prepare and maintain an up-to-date understanding of the likely accommodation needs of their area.

Para 7c use a robust evidence base to establish the accommodation needs to inform the preparation of local plans and make planning decisions

iii) Under Plan Making Policy B PPTS at para 9 PPTS LPAs should set pitch targets for Gypsies and Travellers as defined in Annex 1 which address the likely permanent accommodation needs of travellers in their area.

NPPF

Para 47 requires the Local Plan to meet the full objectively assessed need for market and affordable housing and identify annually a supply of deliverable sites sufficient to provide a 5 years worth of housing against their requirements with an additional 5% buffer to provide choice and competition in the market increased to 20% where there has been persistent failure

Para 48 an allowance for windfall sites in the 5 year supply if there is compelling evidence such sites have consistently become available and will continue to provide a reliable source of supply.

Para 50 states that plans are to deliver a wide choice of high quality homes and provide a mix of housing to meet the needs of different groups.

PPG

The section on updated evidence on the supply of specific deliverable sites stresses how it is intended that the examination of local plans is the proper forum to thoroughly consider and examine evidence on housing needs 'in a way that can not be replicated in the course of determining individual applications and appeals'. Assessments are to be robust, timely and based on up to date and sound evidence. Assessments should ensure that the evidence used is realistic and made publicly available in an accessible format.

2. Swale BC commissioned Salford University to assess need and the findings were published in 2013. This identified a significant need for more sites-a finding that surprised no one. The study followed guidance available at the time. However this need assessment has not been examined at part of the Local Plan process and is no longer relied on by the Council.

3. In order to meet the need identified in the 2013 GTAA the Council rely on permission granted
a) for additional caravans on existing sites but which do not provide separate pitches for occupation by different households, and
b)for developments that fail to deliver residential pitches suitable for permanent residential occupation by Gypsy –Traveller families ie with room for a mobile home, touring caravan and utility block.

This is unrealistic as these permission fail the test of what is deliverable. They are not suitable, or available to other households to occupy. At appeal Inspectors have agree that additional caravans on existing pitches are not readily available to others. The Council are aware that permissions have not been implemented in accordance with approved plans. It is not surprising that applications continue to be made for new sites as Gypsy Travellers can not avail themselves of the very permissions the Council claim meet their needs.

4. Following the change to the definition of Gypsy Travellers in 2015 the Council reviewed the 2013 GTAA, tried to identify those who said they still travelled for work and would meet the new definition. They came to the conclusion that many occupiers of existing sites fail to meet the new planning definition, that the need for more pitches will therefore be far less than assessed in 2013 and that there is no need for any site allocations. The Council has set a pitch target for Gypsy-traveller as defined in Annex 1 PPTS as required by Para 9 (iii) that is based on a survey undertaken in 2013 under different conditions and failed to consider future intentions as required by Annex 1. This approach is not consistent with national policy and is not informed by face to face survey work. It can not be considered robust. In making this assessment they have ignored the needs of all Gypsy Travellers. This exercise was done after the Local Plan was submitted for examination. It was not informed by discussions with Travellers, their representatives or any support groups in accordance with para 7a and 7b of PPTS. This is not a robust approach as required by para 7c of PPTS for the reasons explained in my objections to this main modification. But in particular

a) It assumes the 2013 survey correctly identified the travelling patterns of families at a time when it did not matter. This was not the main purpose of the 2013 study but section C of the questionnaire asked 9 questions on this topic. Q1 refers to how often do you travel or move at present and qualifies this as travelling whilst living in a caravan. In the very first question the study confuses travelling (from a settled base) with being moved whilst stopped on unauthorised roadside encampment. I know from my own dealings over the last 20 years with many Gypsy Travellers that the phrase 'moved on' is likely to have been confused by many with what they call the 'moving on' notices they received when living on the roadside on unauthorised sites ie following a nomadic habit of life. The Council similarly appear to confuse what this means in para2 Policy DM10 when they require applicants for planning to establish that they have an intention to return to a nomadic lifestyle in accordance with annex 1 PPTS. PPTS fails to explain what a 'nomadic lifestyle' means but most Gypsy-Travellers will understand this to mean a return to a roadside existence-which no one wants to resume. Those interviewed on

residential sites would most likely answer never to Q1 of section C because they are no longer being moved on whilst living on the roadside. I doubt many would realise that this question was also asking if they go away travelling from their settled base for a few weeks each year. For many these are trips-not Travelling as they knew it. For these reasons one must treat with some caution the answers given. Those who misunderstand the question and answered 'never' are taken to Section D without exploring if they do in fact undertake any trips from their settled base in their caravans.

b) This different approach was not based on an up to date survey. I know of no other authority which has interrogated old data to establish the Gypsy status of its residents. In my experience most authorities with a large Gypsy-Traveller population have commissioned experienced firms such as ORS or Arc4 to re interview families and have drafted new sets of questions to establish travelling habits.

c) Swale Council assume the families and situation pertaining in 2013 remained the same in 2016. It does not take into account that some pitches could be occupied differently to the situation in 2013 or travelling patterns could have changed. This assessment fails to assess needs from new sites not included in the 2013 assessment.

d) We are not told which families/ sites/ pitches are considered to now be occupied by those who no longer meet the definition in Annex 1 of PPTS so we can not comment on this assessment or check the validity of these conclusions. It cannot be scrutinised. No one knows which families / pitches are considered by Council officers to meet the definition. No one can challenge this finding not knowing how it has been reached. For all we know those who the Council believe no longer travel for work could be living on sites with permanent consent. The Council has stated that it has no intention of evicting residents from existing permanent sites. If all those currently living on sites with temporary permissions, doubled up on sites, concealed or stopping on unauthorised sites are considered to retain a nomadic habit of life-how are their accommodation needs to be met? This assessment lacks the robustness and transparency required in PPG of such assessments. The evidence used has not been made public in an accessible format for inspection.

e) There is no indication the Council checked the permissions for these sites to see what conditions were attached to the grant of planning permission and whether they are breached. Some sites may have personal conditions. Older permissions may not even restrict occupation to those of Gypsy-Traveller status. Some may require compliance with previous definitions in which case the needs of those who are ethnically Gypsy-Travellers but may not travel still have to be taken into consideration.

f) This approach assumes that the children of households who, in 2013, had settled and no longer had need to travel for work, would not travel in the future. That is without foundation.

g) The 2013 need assessment was carried out at a time when Government policy did not insist that families who had settled in accordance with national policy, still travelled for work for part of the year. The questionnaire did not address the requirement in para 2

(c) of Annex 1 to have regard to the intention of living a nomadic habit of life now that the definition has changed. Those who answered that they never travelled were not given the opportunity to consider whether they would go travelling again in order to safeguard their Gypsy-Traveller status.

h) Policy as drafted fails to make clear that provision should only be made for those who comply with annex 1 PPTS. Policy fails to explain what provision will be made for Gypsy-Travellers who have stopped travelling but are still ethnically Gypsy-Travellers for whom there is still a duty to facilitate their way of life and provide sites where they can live in their caravans. These families are still Gypsies by habit and culture. They are likely to exhibit the same household formation tendencies as those families who still travel for work. There will still be a need to plan and meet their needs in the future. This approach offends the Equality Duty imposed on Councils.

i) Having concluded that many families no longer travel for work the Council makes no provision for any transit sites.

5. As such it is difficult to understand how this approach could be considered a well reasoned and pragmatic solution. It is a blatant attempt to reduce the need for pitches by an Authority that has consistently failed, and will continue to fail, to meet the needs of those seeking to reside in this district. The Council has wrongly assumed that PPTS as revised in 2015 advocates a different approach. This is not the approach taken by others, including neighbouring authorities such as Maidstone. This approach is not consistent with national policy and has not been followed by others.
6. For an authority which historically has failed to address need and where many sites have been granted on appeal it is extremely worrying that allocations are no longer considered necessary and large housing allocations will no longer be required to include provision for pitches. This is contrary to para 47 NPPF. Para 48 NPPF makes clear that LPAs may make an allowance for windfall sites in their 5 year supply if they have compelling evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply. To date all provision has had to rely on windfall sites as current local plan policy adopted 2008 is a criteria policy contrary to the advice in C 1/2006. This approach has failed to deliver enough sites. This approach fails to provide a mix of sites as required by para 50 NPPF as the Council has no control over what is being delivered. Many struggle to find suitable sites. Windfall applications rely on guess work. No one can be certain what will be appropriate or where. It is the lazy-man's approach to planning. The Council get out of the controversial process of identifying land that is considered suitable and leave it to the Gypsy Travellers themselves to second guess what might be considered appropriate. This is not a plan led system as promised. We need to take the guessing out of planning so that Travellers can buy land with certainty permission will be granted.
7. Council now appear to rely wholly and totally on windfall sites in the knowledge this has failed to meet all the existing need and has not been reliable. This offers no certainty. It offers no choice for those unable to self provide and living on socially provided sites as the Council does not intend to identify any more socially provided sites to meet need arising from existing sites. The large provision granted at the Brotherhood Woodyard

Dunkirk has not been implemented, and most of the small pitches planned for this site were never designed to meet a permanent residential need-being more suited to transit users. The plots were not designed to take a mobile home and a touring caravan and failed to provide individual utility blocks. I note that the 2015/6 monitoring update SBC/PS/119 provided to the EIP in late 2015 wrongly claims that the 19 pitches on this site have been implemented. When I last viewed this the site did not resemble the permission as granted. The Council continue to rely on this permission with unrealistic expectations that it will address the immediate need for sites. The Inspector needs to see this site and compare it with a) the approved plans and b) with other private Gypsy sites and c) with the former Government Guidance on site layouts and question whether what was approved and what has been provided is suitable for a Gypsy Traveller site. The Council has assured appeal Inspectors that it is investigating this site for at least 2 years to ensure compliance. They refuse to be drawn on who is occupying the caravans. To rely on windfalls such as this to meet identified need is unrealistic and unfair. There is no justification to delete Local Plan part 2 when the need for sites in Swale is as high and immediate as it is now. This is contrary to the approach advocated in Policy B para 10a PPTS which states that in producing a Local Plan LPAs should identify and update annually a supply of specific deliverable sites sufficient to provide a 5 years worth of sites against their locally set targets. PPTS does not suggest that Councils rely on windfall sites for Gypsy –Travellers with good reason. To be considered deliverable, footnote 4 reminds us that sites should be available now, offer a suitable location for development and be achievable with a realistic prospect that development should be delivered on the site within 5 years.

8. If the approach now proposed by Swale Council is to be relied on, if we are to believe the need for more sites will be met by existing provision and windfalls, if we are to believe there is no need for future allocations, then the Inspector needs to be satisfied what the Council intend for those who occupy sites where households are not considered to meet the planning definition, and how the following need is to be accommodated:-
 - a) Need arising from household formation both on private sites and on the socially provided site in Sittingbourne where no new pitches have been created
 - b) Need arising from in migration
 - c) Need arising from movement from bricks and mortar
 - d) Need arising from the many families currently living on the sites with temporary permissions
 - e) Need arising from unauthorised sites including the 8 families now stopping on land at Spade Lane , Hartlip

For the above reasons, and having regard to the Council's schedule of response to my representations to the Main Modification, it is argued that the approach set out in the main modifications to provide pitches for Gypsies and Travellers is NOT consistent with up to date guidance. It offers no certainty, no flexibility and no choice. It is not positive. It is not informed by a robust and transparent assessment. It is not evidence based. It will not deliver enough sites to meet the immediate pressing need for more sites in this district. It offends the Council's Equality Duty in so far as the needs of those who are settled but do not travel are not addressed. The Council seeks to mislead the Inspector by claiming that the 19 pitches at Brotherhood Woodyard at Dunkirk have been implemented (SBC/PS/119) or that these pitches are suitable for residential occupation by Gypsy Travellers. My concerns are not allayed by the

Council's response to the matters raised and I anticipate that Swale BC will fail to address need for many years to come if the Local Plan is not based on robust evidence and the proper appraisal of the needs of Gypsy Travellers in this district-many of whom have waited long enough to have their needs met through the Local Plan process.

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December 2016.