

Chichester Local Plan Examination – Hearing Statement

Matter 4C: Housing (part 2)

Questions 91 - 106

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This hearing statement has been produced as part of the examination of the Chichester Local Plan. It answers the Inspectors' questions 91-106, relating to **Matter 4C: Housing (part 2)**.

Any queries about the report should be sent to the Programme Officer:

Address: Kerry Trueman
Programme Officer Solutions Ltd.
Pendragon House
1 Bertram Drive
Meols
Wirral CH47 0LG

Telephone: 07582 310364

Email: programmeofficer@chichester.gov.uk

Matter 4C: Housing (part 2)

Issue: Is the proposed approach to housing development positively prepared, justified, effective, and consistent with national policy?

Policy H11 Meeting Gypsies, Travellers and Travelling Showpeoples' Needs

Q.91 Is the assessed need for Gypsy, Traveller and Travelling Showpeople accommodation up to date and justified?

- 1.1 Yes, the council has a recently finalised Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (GTAA) (Examination Library Ref: H03), completed in December 2022. This has been prepared by specialist consultants Opinion Research Services (ORS), who prepare a significant proportion of the GTAAs produced nationally. Their methodology has been found to be robust at numerous Local Plan Examinations, including Bedford, Blaby, Cambridge, Central Bedfordshire, Chelmsford, Cheltenham, Cotswold, Daventry, East Hertfordshire, Gloucester, Hart, Maldon, Milton Keynes, Newham, Runnymede, South Cambridgeshire, South Northamptonshire, Tendring, Tewkesbury, and Waverley.
- 1.2 The GTAA was produced prior to the amendment to Planning Policy for Traveller Sites (PPTS) in December 2023, which amended the definition of travellers and travelling showpeople (which determines the need level with respect to PPTS). However, ORS have reviewed the data collected as part of the GTAA 2022 in light of that amendment and updated the need figures accordingly in order to bring them into line with the updated version of PPTS.
- 1.3 The GTAA is based on a sophisticated methodology as clearly set out within the document, meaning that the need levels it establishes are fully justified.

Q.92 Does Policy H11 clearly set out the requirement for the provision of Gypsy and Traveller pitches and Travelling Showpeople Plots, and would it be effective?

- 1.4 The policy as originally drafted is considered to clearly set out the requirements for the provision of pitches and plots as it stood at the time of drafting. However, the presentation of the need level is influenced by the nature of the Opinion Research Services methodology, which results in the need level being split into 3 categories: those established as meeting the PPTS definition; those established as not meeting the PPTS definition; those travellers identified as potentially meeting the definition, but where this has not been definitively established. From a factual standpoint, the figures set out in the policy do need to be amended in order to reflect the changes made to PPTS in December 2023, which amended the definition of who meets the PPTS definition of travellers and travelling showpeople. This is addressed in the proposed

modifications schedule submitted by the council, please see Main Modifications CM178 – 183.

- 1.5 It may be helpful to provide some further clarification concerning the need levels specified in the policy. The key figure is that which pertains to travellers who are established as meeting the PPTS need. The unknown category does not need to be planned for specifically, but is referred to in the table which sets out the level of need as in some instances those travellers may be able to demonstrate that they meet the PPTS definition and hence seek a pitch on that basis via the criteria within policy H11 which allows pitches to come forward on a flexible basis. The potential need falling within the unknown category is very small, as the majority of this category has already been moved into the category which does meet the need on the basis of the statistical probability of them meeting that definition. The category pertaining to those not meeting the definition was important after the Lisa Smith judgement¹, as there was a strong argument that some of that need should be planned for in the same way as those who met the PPTS definition, e.g. retired travellers. However, in light of the changes to PPTS in December 2023 very few people in that category are likely to require traveller style accommodation. The only scenario where that could be envisaged is where people don't meet the PPTS definition, but are entitled to culturally appropriate accommodation in light of the Equalities Act (as referred to in paragraph 3.35 of the GTAA). The other caravan dwellers captured by the 'do not meet the definition' category would form part of the general housing need.
- 1.6 Consequently, setting out the level of need is not always completely clear cut. In light of the changes to PPTS and the resultant update to the need position referred to above it would be clearer and simpler to only include the category pertaining to those who meet the definition, and the council would be happy to amend the policy and supporting text accordingly. Alternatively, explanatory text along the lines of the above could be included within the supporting text, should this be considered necessary by the Inspectors in order to ensure the effectiveness of the policy.
- 1.7 More generally, it is considered that the policy sets out an effective framework for meeting the level of need over the plan period in a positive way. This framework includes other relevant policies within the submission Local Plan, namely H12, H13, H14 and the relevant site allocation policies.

¹ *Lisa Smith v Secretary of State for Levelling Up, Housing & Communities and Others* [2022] EWCA Civ 1391

Q.93 Consistent with the Planning Policy for Traveller Sites (PPTS) can the Council demonstrate a supply of specific deliverable sites for Gypsy, Traveller and Travelling Showpeople accommodation sufficient to provide 5 years' worth of sites against the identified need, developable sites, or broad locations for growth, for years 6 to 10 and, where possible, for years 11-15?

1.8 The position in relation to these issues is set out in the council's Gypsy and Traveller Background Paper (BP03), but a summary of the position is as follows. In relation to gypsy and traveller pitches, the council has done all that it can in order to identify specific deliverable and developable sites, however, in order to meet the high level of need, the council will need to rely upon windfall to meet some of the need (though the council has tried to keep this reliance on windfall to a minimum). With the utilisation of all sources of supply (i.e. including windfall) then the full need can be met, including the 5 year need. The background paper sets out the justification for this approach, and the evidence in relation to the strong track record of windfall sites coming forward. The most relevant section of the background paper in this regard is that on supply (of gypsy and traveller pitches), pages 8 – 20, with a summary set out on page 20. The evidence in relation to windfall sites coming forward is set out in Appendix 5 of the background paper.

1.9 With regard to travelling showpeople, the level of need, relative to the achievable supply, is even more difficult than is the case with gypsies and travellers. The council has again done all that it can in order to provide the required supply, but a shortfall in 5 year supply is unavoidable. The council has requested assistance in this regard from neighbouring authorities, but as is often the case with this form of supply, no surplus plot provision is available in neighbouring authorities in order to meet the outstanding need. This has been addressed in the statements of common ground with neighbouring authorities and in the Statement of Compliance. Nevertheless, with the utilisation of all available sources of supply, including windfall, the shortfall from the first 5 years can be made up over the remainder of the plan period, and the full need can be met over the plan period as a whole. The most relevant section of the background paper in this regard is that on supply (of travelling showpeople plots), pages 22 – 25, with a summary set out on page 25. The evidence in relation to windfall sites coming forwards is set out in Appendix 5.

Q.94 Is the proposed approach to the provision of pitches and plots effective and would it be deliverable?

1.10 Yes, it is considered that the approach taken to pitch and plot provision would be effective and deliverable. A more detailed appraisal of each supply component in this regard is as follows:

- Consented pitches (including vacant pitches): Given that these sites have planning permission, they are to be assumed to be deliverable unless there

- is clear evidence to the contrary, and the council is aware of no such evidence.
- Intensification sites: The deliverability considerations with respect to these pitches has been considered in considerable detail via the Pitch Deliverability Assessment produced by ORS (Examination Library ref: H04), which is augmented by the Pitch Capacity Assessment produced by Adams Hendry (Examination Library ref: H05). This is considered to be a very robust approach to the deliverability of these pitches. The consideration of the intensification of travelling showpeople plots is more complicated, as there is less standardisation in terms of what sort of plots are deliverable. Nevertheless, the council's Gypsy and Traveller and Travelling Showpeople Background Paper has assessed the relevant intensification site, namely Five Paddocks Farm/Mans Rest, and given that a number of permissions have recently been sought on the wider site, a limited number of plots are considered to be deliverable at this site.
 - Pitches/plots to be provided on strategic allocation sites: This is an increasingly common approach to the provision of pitches, which a number of LPAs have utilised, such as Basingstoke, Guildford and Runnymede. The council has incorporated the provision of these pitches/plots into its capacity considerations in relation to these sites, and their provision has also been considered through the viability work which has been undertaken (as set out in the Stage 2 Viability Report – Examination ref: IN02.02).
 - Windfall: Given the strong track record in terms of windfall sites coming forward, it is considered that reliance on some additional windfall is both effective and deliverable.

1.11 Further information regarding the above is set out in the council's Gypsy and Traveller Background Paper.

Q.95 What level of provision, if any, is anticipated to be met through a Site Allocation DPD? Is this approach positively prepared?

1.12 The council has sought to meet as much of the need as possible via the Local Plan, which is considered to be necessary in order to ensure that the plan is positively prepared. Consequently, the council is not seeking to rely on the Site Allocation DPD in this regard.

Q.96 Is the inclusion of a policy consideration in footnote 42 effective?

1.13 The council is happy to move the footnote to the main body of the policy in order to ensure effectiveness, the amendment is set out in the updated schedule of modifications (see Council's suggested modification schedule, Version 2, CDC015.01, ref CAM420 and below):

Additional suggested modification CAM420:

Move footnote into the 4th paragraph of the main body of the policy:

Pitches consented in the plan area should be marketed initially⁴² **for at least 12 months** for travellers with a local connection.

~~42 For at least 12 months~~

Q.97 What is the justification of the 200 homes threshold for the provision of 3 pitches for every 200 dwellings proposed on non-allocated housing sites?

1.14 The 200 homes threshold relates to the core assumption within the Local Plan that it's focus is on strategic scale sites, which are defined within the LP as being 200 units or more. The requirement for the provision of 3 pitches in such instances is based on the assumption that this number of pitches is suitable for a family unit and is generally achievable in terms of incorporating this number of pitches into a housing site of that size i.e. 200 units. This is based on the principles which have been utilised when assigning pitches to the strategic allocations, and has been viability tested as referred to above.

Q.98 Are the suggested MMs necessary for soundness?

1.15 Yes, it is considered that the proposed MMs are necessary in order to ensure the effectiveness of the policy. In terms of some more specific points concerning these amendments, CM185 is considered necessary for clarity as per paragraph 16 (d) of the NPPF and responds to representations received from Crownhall Estates and Barratt David Wilson Homes). CM188 is also required for clarity, and responds to a representation made by Natural England. The exception is CM182, which is a minor modification to correct a wording error.

Policy H12 Intensification sites

Q.99 Is the pitch/plot provision on existing sites up to date and what is the evidence that it is deliverable?

1.16 The deliverability considerations with respect to these pitches has been considered in detail via the Pitch Deliverability Assessment (PDA) produced by ORS (H04), which is augmented by the Pitch Capacity Assessment produced by Adams Hendry (H05). The PDA was completed in 2022, which is considered to be sufficiently up to date. As part of the PDA, ORS interviewed site owners in order to establish that they considered additional pitches on their sites would be deliverable.

1.17 The consideration of provision in relation to travelling showpeople is set out in the Gypsy and Traveller Background Paper, which was finalised in May 2024 and is considered to be up to date. Compared with gypsy and traveller pitches, the consideration of the intensification of travelling showpeople plots is more complicated, as there is less standardisation in terms of what sort of plots are deliverable. Nevertheless, the council's Gypsy and Traveller and Travelling

Showpeople Background Paper has assessed the relevant intensification site, namely Five Paddocks Farm/Mans Rest, and given that a number of permissions have recently been consented within this cluster of plots, a limited number of additional plots on vacant areas within the site area are considered to be deliverable.

Q.100 Is the provision of 2 additional temporary travelling showpeople plots at Five Paddocks Farm realistic and deliverable given that it is indicated to be on a temporary basis and given the size constraints of the available land?

1.18 As has been set out in the Gypsy and Traveller Background Paper Five Paddocks Farm is quite an unusual travelling showpeople site, as the plots it contains are generally considerably smaller than is typically recommended. It also doesn't have the large storage areas associated with such sites. Consequently, it is already a characteristic of this site that the plots tend to be relatively small, with limited storage areas. Moreover, there are several vacant areas on the site, which are just grassed over rather than being given over to storage, and these are the areas which have been identified as being suitable for intensification; one such area has recently been consented for conversion to an additional plot (22/02136/FUL).

1.19 The areas of land which have been identified as being suitable for intensification are approximately 920 and 820 square metres. As referred to above, the plot immediately to the south has just been subdivided, with the new plot measuring only 610 sq.m. (or 750 sq.m if the access road is included) (reference number 22/02136/FUL). Another recent permission adjacent to the intensification area was for a plot measuring 880 sq.m. (19/01582/FUL). Therefore, it is considered logical that these vacant areas will be used for additional plots, and the amount of space available is commensurate with other plots which have been successfully delivered on the site.

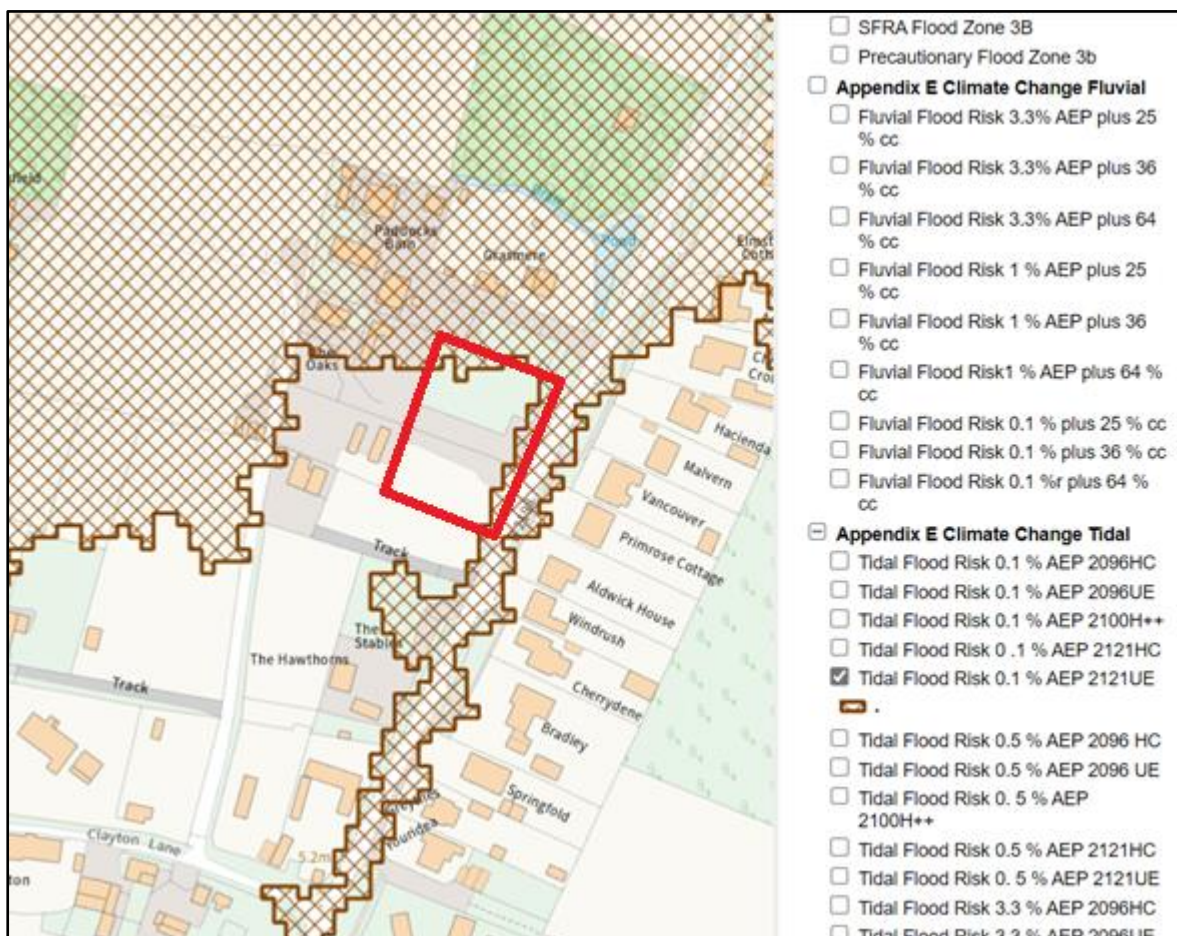
1.20 In terms of the proposed limitation on occupancy, as has been set out in the proposed modifications it is considered that personal permissions could well be more appropriate than temporary permissions, and the proposed amendment to that effect would help to make the plots more appealing. Given the shortage of plots it is considered that they would still be highly desirable. Consequently, in light of the above, it is considered reasonable to regard these intensification plots as deliverable.

Q.101 What is the evidence that the proposed provision at Five Paddocks Farm would be safe from all forms of flooding for its lifetime?

Has it been subject to the sequential test and the exception test as necessary?

1.21 As has been set out in the Gypsy and Traveller Background Paper, as the council is proposing the use of temporary or personal permissions in relation to these sites in order to obviate the concerns regarding future flood risk, it is considered that the sequential and exception test doesn't need to be applied on that basis. However, were these to be allocated or consented on the basis that they would be permanent pitches then in that case the sequential and exception test would need to be passed.

1.22 It is unlikely to be particularly difficult to pass the sequential and exception test in this instance. More specifically, the flood risk is future tidal flooding associated with wave overtopping of the flood defences adjacent to the seafront in East Wittering/Bracklesham, and the flooding depths are fairly shallow and hence should not be particularly difficult to mitigate (based on information submitted with respect to an appeal site to the south - 22/02214/FULEIA). The future flood areas only have a significant impact in relation to these sites after 75 years, and then primarily affect the frontage of the sites i.e. the highways access and the northernmost area of the northern part of the intensification area. Passing the sequential test is also likely to be relatively straightforward given that the council's site assessment work has demonstrated that there no alternative sites available to meet the need for travelling showpeople plots.



1.23 This image taken from the latest Strategic Flood Risk Assessment mapping illustrates the future flood areas pertaining to the intensification areas referred to above.

Q.102 Are the suggested MMs necessary for soundness?

1.24 Yes, it is considered that the proposed MMs are necessary in order to ensure the effectiveness of the policy and responds to representations from a member of the public and Southbourne Parish Council.

Policy H13 Accommodation for Gypsies, Travellers and Travelling Showpeople

Q.103 Is the inclusion of a policy consideration in footnote 43 effective?

1.25 The council is happy to move the footnote to the main body of the policy in order to ensure effectiveness, the amendment is set out in the updated schedule of modifications (see Council's suggested modification schedule, Version 2, CDC015.01, ref CAM421 and below):

Additional suggested modification CAM421:

Move footnote into main body of the policy (as new sentence at the end of the policy):

Sites covered by Policy H12 above are not required to comply with these requirements as they have already been deemed to meet the criteria in question.

~~43 Sites covered by Policy H12 above are not required to comply with these requirements as they have already been deemed to meet the criteria in question.~~

Q.104 Given the likely reliance on windfall provision for meeting identified needs, are criterion 7 and paragraph 5.72 justified, and would they be effective?

1.26 In terms of criterion 7, this is considered to be appropriate even in light of the reliance on windfall, as all the while there is an outstanding need (i.e. a lack of 5 year supply of pitches) this criterion would be met, provided the pitches would help to meet the identified need. Focusing on the identified local need is vital, as otherwise there is no guarantee that speculative pitches will actually address the identified local need, which then means that the local need isn't addressed and will keep growing exponentially.

1.27 With regards to paragraph 5.72, what it sets out is considered to be reasonable in principle, as it effectively seeks to reflect paragraph 25 of Planning Policy for Traveller Sites: "Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan."

1.28 However, if on that basis the Inspectors consider that there is hence no need to replicate national policy, the council would have no objection to deleting that paragraph.

Policy H14 Gypsy and Traveller, and Travelling Showpeople site design policy

Q.105 Is the requirement in criterion a, for proposals to be compliant with the Councils adopted Surface and Water and Foul Drainage SPD and the West Sussex Lead Flood Authority Policy for the Management of Surface Water clearly written and unambiguous, so it is evident how a decision maker should react to development proposals given that these documents are not part of the development plan?

1.29 The council is willing to remove the reference within the policy to the documents referred to in the question, as they are material considerations in any case. It is proposed to convert that reference to supporting text in the form of a new paragraph. These amendments are set out in the updated schedule of modifications (see Council's suggested modification schedule, Version 2, ref CAM422 and below):

Additional suggested modification CAM422:

Delete reference to other planning documents at the end of clause a):

- a) The site and all the accommodation provided benefits from suitable provision of essential services including water, power, sewerage, drainage and waste disposal, or it can be demonstrated that these will be successfully provided prior to the occupation of the site (and maintained as such thereafter). ~~For drainage, this is to be demonstrated by a Drainage Strategy compliant with the council's adopted Surface Water and Foul Drainage SPD, and the West Sussex Lead Local Flood Authority Policy for the Management of Surface Water;~~

Additional suggested modification CAM423

Additional paragraph proposed after 5.77 on page 129 in order to convert this text to supporting text:

Appropriate drainage is an essential component of well-designed gypsy and traveller sites. Ensuring that this is achieved will need to have due regard to the council's adopted Surface Water and Foul Drainage SPD, and the West Sussex Lead Local Flood Authority Policy for the Management of Surface Water (or any subsequently updated versions of these documents).

Q.106 Are the suggested MMs necessary for soundness?

1.30 The proposed amendment in relation to the supporting text of this policy is considered necessary for soundness, in order to aid the interpretation and

implementation of the policy as per paragraph 16 (a) of the NPPF and has been proposed in response to a representation from West Sussex County Council.