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# Dacorum Site Allocations Development Plan Document Examination Matters, Issues and Questions

Hearing Session Paper – Matter 11 “Policy LA5:  
Icknield Way, West of Tring”  
CALA Homes

Representor ID: 494131

September 2016



**Dacorum Site Allocations Development Plan Document Examination**

**Matters, Issues and Questions**

**Hearing Session Paper – Matter 11 “Policy LA5: Icknield Way, West of Tring”**

**CALA Homes**

**September 2016**

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## INTRODUCTION

This Hearing Session Paper has been prepared in response to questions raised by the Inspector in her Matters, Issues and Questions to the Dacorum Site Allocations Development Plan Document (DPD). They are to be read in conjunction with the Representations to the Site Allocations Pre-Submission Consultation 2014 by Barton Willmore on behalf of CALA Homes (November 2014) (“the 2014 Representations”).

Matters specifically relating to the planning aspects of the inclusion of the traveller site within the allocation are addressed in Hearing Session Paper 3 in direct response to Question 1 although some references are included below for completeness.

In terms of Question 1, we demonstrate below that:

- The Green Belt boundary has not been correctly defined as it now results in an ad-hoc and illogical amendment to the previous boundary, which does not meet the tests of the NPPF as exceptional circumstances have not been demonstrated.

In terms of Question 2, we demonstrate below that:

- The effect of the traveler site on the AONB has not been fully considered as no robust site selection process has been undertaken for the allocation of traveller sites;
- The inclusion of traveller pitches would be harmful to the landscape character and visual amenity, would contradict the design principles of the draft Masterplan and LA5 Allocation and would be harmful to the character of the AONB. Consequently, the inclusion of the traveller pitches would not accord with Government policy on landscaping associated with gypsy and traveller sites.

In terms of Question 4, we demonstrate below that:

- As the research referred to in the BNP Paribas Report is not publicly available it is impossible for third parties to interrogate it. It therefore has not been demonstrated whether all aspects of viability have been considered (i.e. the potential impact on saleability, revenues (and hence land value) and thus overall viability given the proximity of a gypsy and traveller site);

- A local land agent has confirmed that they are of the opinion that prospective buyers will perceive that a gypsy and traveller site adjacent to the prospective development at LA5 will serve to undermine the desirability of the location, and this in turn will impact negatively on saleability, revenues (and hence land value) and thus overall viability of the whole site; and
- The impact of gypsy and traveller sites on the viability of neighbouring uses can be capable of being a material planning consideration

## **MATTER 11 – POLICY LA5: ICKNIELD WAY, WEST OF TRING**

### **1. Has the Green Belt boundary been correctly defined?**

1.1 No the Green Belt boundary has not been correctly defined at LA5.

1.2 CALA Homes supports the proposed Green Belt boundary, as defined in relation to the LA5 allocation of the Pre-Submission document and as promoted by CALA Homes (i.e. without the inclusion of a traveller site at LA5).

1.3 The recent inclusion of the 5 no. gypsy and traveller pitches on the western fields of allocation LA5 within the Green Belt, is an ad hoc amendment to the Green Belt boundary, which does not meet the tests of the NPPF. This is illustrated further in **Appendix 1**.

1.4 Paragraph 83 of the NPPF states that:

*“Once established, Green Belt boundaries should only be altered in exceptional circumstances, through the preparation or review of the Local Plan.”*

1.5 What are “exceptional circumstances” is defined by case law, in particular the case of *Gallagher Homes Ltd v Solihull Borough Council* [2014] EWHC 1283 (Admin), Hickinbottom J which found that preparing a new local plan is not, of itself, an exceptional circumstance justifying alteration to a green belt boundary. Paragraph 125 states:

*“125. From these authorities, a number of propositions are clear and uncontroversial...*

*...However, it is not arguable that the mere process of preparing a new local plan could itself be regarded as an exceptional circumstance justifying an alteration to a Green Belt boundary. National guidance has always dealt with revisions of the Green Belt in the context of reviews of local plans (e.g. paragraph 2.7 of PPG2: paragraph 83 above), and has always required*

*"exceptional circumstances" to justify a revision. The NPPF makes no change to this.*

*b) For redefinition of a Green Belt, paragraph 2.7 of PPG2 required exceptional circumstances which "necessitated" a revision of the existing boundary. However, this is a single composite test; because, for these purposes, circumstances are not exceptional unless they do necessitate a revision of the boundary (COPAS at [23] per Simon Brown LJ). Therefore, although the words requiring necessity for a boundary revision have been omitted from paragraph 83 of the NPPF, the test remains the same. Mr Dove expressly accepted that interpretation. He was right to do so.*

*iii) Exceptional circumstances are required for any revision of the boundary, whether the proposal is to extend or diminish the Green Belt. That is the ratio of Carpets of Worth.*

*iv) Whilst each case is fact-sensitive and the question of whether circumstances are exceptional for these purposes requires an exercise of planning judgment, what is capable of amounting to exceptional circumstances is a matter of law, and a plan-maker may err in law if he fails to adopt a lawful approach to exceptional circumstances. Once a Green Belt has been established and approved, it requires more than general planning concepts to justify an alteration."*

- 1.6 It is considered that exceptional circumstances have not been demonstrated by the council for the most recent alteration to the green belt boundary around the proposed 5 traveller pitches at LA5. The council's stated justification for this adjustment to the Green Belt boundary is stated in the Council's 21<sup>st</sup> July Cabinet Report (para 5.2):

*"...that for consistency with the approach to the cemetery, and the approach to the Gypsy and Traveller Sites on LA1 and LA3, the adjacent Gypsy and Traveller site is also excluded from the Green Belt."*

- 1.7 The proposed inclusion of the traveller pitches at LA5 and the adjustment to the Green Belt is compounded by the fact that an effective site selection process to identify suitable gypsy and traveller sites has not been undertaken by the council, as set out in the 2014 Representations and our Hearing Statement Matter 3.

- 1.8 On this basis, an appropriate review (necessary to justify exceptional circumstances) of the proposed inclusion of the traveller site and adjustment to the Green Belt boundary in this location has not been undertaken, evidenced by the fact that the traveller site is not referred to in the Green Belt Review Purposes

Assessment: Annex 1 - Parcel Assessment Sheets for Dacorum Borough Council (November 2013).

1.9 Consequently, the Green belt boundary has not been correctly defined given the proposed allocation of the traveller site. Should the traveller site be removed from LA5 then the Green belt boundary is considered to be correctly defined.

**2. Has the effect of the proposed cemetery, play area and traveller site on the AONB been fully considered?**

2.1 Similar to the concerns raised above in relation to the Green Belt and the concerns raised in the Hearing Statement for Matter 3, as no robust and transparent site selection process has been undertaken by the council then it follows that the effect of the traveller site on the AONB has not been fully considered.

2.2 In relation to the proposed location of the site within the AONB, Paragraph 115 of the NPPF requires "great weight" to be given to conserving the landscape and scenic beauty of Areas of Outstanding Natural Beauty (AONB). The provision of traveller pitches within the AONB at Allocation LA5 would not be consistent with the conservation of the landscape and scenic beauty of the AONB.

2.3 Insufficient (if any) consideration has been given to the impact of the traveller site on the AONB landscape. The absence of consideration of the impact on the AONB is reflected by the fact that the Sustainability Appraisal (in relation to objective 11 Landscape & Townscape) states that the site is adjacent to the AONB. No consideration is given in that document to the impact of the traveller site that is proposed within the AONB. We consider this to be a significant shortcoming in the evidence base.

2.4 It should be noted that in considering the proposed allocation of site LA5 during the Core Strategy examination in 2012 a Statement of Common Ground (August 2012) was entered into between the Council and CALA Homes (Examination Document SG3) and a preliminary Landscape Assessment (Examination Document JS12) was prepared. The Statement of Common Ground stated (at paragraph 2.5):

*The western part of the site (fields F4 & F5) (7.9 ha) fall within the Chilterns AONB, which it is accepted will remain open and undeveloped.  
The remainder of the site is considered to have development potential (9.7 ha).*

2.5 Map 2, which was appended to that document showed the area now proposed for a traveller site as within an area of high landscape character sensitivity and in the line of a key view across the AONB towards the urban edge.



2.6 The Landscape Assessment (August 2012) was agreed in the SOCG to be a systematic appraisal. It assessed Field F4, which is now proposed as the location of the traveller site, as having high landscape value, being in good condition and having high landscape character sensitivity. It recommended that Fields F4 and F5 should be maintained as open space. The Landscape Assessment also noted that the site was visible from PROWs on the Tring scarp slopes and recommended that development of fields F4 and F5 should be avoided so as to maintain the visual setting of the AONB. Finally, the Landscape Assessment also recommended that development of Field F4 and F5 should be restricted to appropriate development within the Green Belt so as to maintain openness. The SoCG also noted the need to secure a defensible long-term Green Belt boundary.

2.7 We have taken this opportunity to update our landscape and visual advice (**Appendix 1**) to assume the inclusion of gypsy and traveller pitches at LA5. The statement concludes that the inclusion of 5 gypsy pitches:

- Would be harmful to the landscape character and visual amenity;
- Would contradict the design principles of the draft Masterplan and LA5 Allocation;
- Would be harmful to the character of the AONB; and
- Would not, therefore, accord with Government policy on landscaping associated with gypsy and traveller sites.

2.8 The proposal to locate a travellers' site within field F4 is, also, directly contrary to the work undertaken for the Core Strategy examination. That evidence suggests that development in this field would harm the landscape and scenic beauty of the AONB, the openness of the Green Belt and the defensibility of the new Green Belt boundary.

#### **4. Is the site viable with the inclusion of the traveller site?**

4.1 We note that the council has recently commissioned BNP Paribas to undertake an update to the council's development viability testing for the local allocations, including LA5.

4.2 It is evident that this update only provides assumptions on the increased costs for delivering 5 gypsy pitches on the LA5 site, making provision at paragraph 3.2.9 for an additional developer cost of £1,125,000.

4.3 There is not, however, any revised assumptions on the potential residential sales values for new homes located within close proximity of the proposed gypsy pitches.

The only analysis on residential sales values is provided at paragraph 3.2.2 which states:

*“...we have undertaken research into comparable evidence of both new build and second hand properties which have transacted or which are currently on the market in the area to establish appropriate current values for testing purposes. Sources of this comparable evidence include Land Registry data on sales values achieved as identified on the Rightmove website, pricing on individual new build developments, properties being advertised on Rightmove and finally following discussions with active local agents.”*

- 4.4 BNP’s “research” is not publicly available which is a fundamental flaw in providing a “proportionate evidence” base as it simply cannot be interrogated by third parties. This cannot be transparent or robust. This is compounded by the fact that it is unlikely that comparable sales values exist for properties adjacent to gypsy and traveller pitches in Tring, and therefore the BNP Paribas report does not fully take into account all aspects of saleability or impact on revenues, and therefore is not a robust assessment of overall viability. In order to shed more light on this matter CALA has contacted active local agents directly.
- 4.5 We have provided evidence at **Appendix 2** from a local agent which states that in their opinion there is no doubt that prospective buyers will perceive that the provision of the pitches on LA5 would undermine the desirability of the location, which will in turn impact negatively on saleability, revenues (and hence land value) and thus overall viability of the whole site.
- 4.6 It should be noted that even a relatively minor impact on sales values could result in £Ms of lost revenue. This would have a detrimental impact on the ability of the development to deliver other planning obligations and would also lead to a decrease in predicted sales rates for the site.
- 4.7 A fall in sales rates would likely have a detrimental impact on the delivery of all local allocations across the plan period, which would also impact on the council’s ability to demonstrate a 5-year land supply position.
- 4.8 Given that there are limited examples of where gypsy and traveller provision has been co-delivered within housing developments - there are consequently limited examples of where the specific impact of gypsy and traveller sites on the viability of neighbouring uses has been considered in the planning system. However, the following recent appeal decision provides some useful guidance and demonstrates that the impact of gypsy and traveller sites on the viability of neighbouring uses can be capable of being a material planning consideration.

4.9 Appeal Ref: APP/H0520/W/15/3004390 Land south of Straight Drove, Farcet (December 2015) considered the impact of two gypsy and traveller sites on the viability of an adjacent care home (Conquest House) which provided support for residents with mental health issues and learning disabilities. In dismissing the appeal Inspector Dakeyne stated in paragraph 17 that he gave:

*“...some weight to the possibility that agencies would be less likely to refer certain individuals with mental health issues to Conquest House if the environment was less tranquil. In due course this could affect staffing levels and the viability of the business and therefore the effective operation of the adjoining land use”.*

4.10 The appeal decision is attached at **Appendix 3**.

4.11 The NPPF (para 173) requires that careful attention is paid to viability and costs in plan-making. To this end, Plans are required to be deliverable and development sites should not be burdened to an extent that their ability to be developed viably is threatened.

4.12 The issue of including gypsy and traveller sites within wider allocations was considered in the Examination into the South Gloucestershire Core Strategy with paragraph 152 of the Inspector’s Report stating that:

*“The policy on Gypsy and Traveller Accommodation (CS21) explains how additional pitches will be provided, including provision in the new neighbourhoods. There is strong resistance to this because developers are concerned it would compromise delivery of their sites”.*

4.13 The above option of including gypsy and traveller accommodation within new neighbourhoods was not pursued. It is acknowledged that factors such as need also contributed to this revised strategy but it is apparent that developer resistance based upon delivery was a material consideration.

4.14 It is considered that the provision of gypsy pitches on LA5 would, therefore, carry a significant risk to viability and therefore delivery of the LA5 site. On this basis Policy LA5 would not be effective and the Plan would not be sound in accordance with paragraph 182 of the NPPF.

**APPENDIX 1 – LANDSCAPE AND VISUAL ADVICE NOTE**

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## Appendix 1

# Land at West Tring: Landscape and Visual Advice Note

Prepared on behalf of CALA Homes (South) Ltd

September 2016



# Appendix 1

## Land at West Tring: Landscape and Visual Advice Note

Prepared on behalf of CALA Homes (South) Ltd

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<b>Authorised by:</b>	MDC

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## **ILLUSTRATIVE MATERIAL**

Figure 1: Policy LA5 - Revised Green Belt Boundary Plan

## 1.0 LANDSCAPE AND VISUAL ADVICE NOTE

### Introduction

- 1.1 Barton Willmore Landscape Planning and Design (BWLPD) prepared, on behalf of CALA Homes (South) Ltd., a landscape and visual impact assessment (LVIA) (August 2012) to inform development proposals at the above location (the 'Site'), including thorough consideration of potential landscape and visual effects arising.
- 1.2 We are now requested to provide landscape and visual advice in respect of the proposed allocation of land at the Site for residential, employment, open space, cemetery and gypsy/traveller land use, as set out in Dacorum Borough Council Site Allocations Pre-submission draft (January 2016), Policy LA5: Icknield Way, West of Tring, which also refers to Local Allocation LA5 Draft Masterplan (October 2015).
- 1.3 The proposed allocation of land is broadly in line with the Landscape and Visual Opportunities and Constraints set out in the LVIA. However, the draft allocation now includes a gypsy/traveller site in the western area of the Site, in addition to a cemetery extension.
- 1.4 The proposed allocation is considered below in terms of overarching landscape and visual considerations and then specific aspects of existing and proposed policy are addressed.

### Landscape and Visual considerations associated with Draft Allocation LA5

- 1.5 It is considered that the proposed cemetery, whilst introducing some low-level forms into the southern part of the Site, would, if designed and managed to the 'green cemetery' principles set out in paragraph 5.56 of the draft masterplan, result in minimal adverse effect, if any, on the Chilterns Area of Outstanding Natural Beauty (AONB) in which it would be situated. In fact, this would have potential to provide a softened transition between the urban area and the wider landscape of the AONB which would be of material benefit in landscape terms.
- 1.6 The proposed gypsy/traveller site is assumed to include access gateway infrastructure, hard standing and parked vehicles including caravans/mobile homes, associated with around 5 no. pitches as set out in the Draft Masterplan which also notes the potential for ancillary facilities, which would potentially include built form.
- 1.7 Policy CS22: New Accommodation for Gypsies and Travellers, of the Dacorum adopted Core Strategy (September 2013) explicitly states that new sites will be:

*e) "(e) designed to a high standard with:*

*ii) (i) an open frontage similar to other forms of housing; and*

***iii) (ii) landscaping or other physical features to provide an appropriate setting and relationship to existing residential areas."***

- 1.8 It is considered that in the specific context of the part of the Site proposed for a gypsy/traveller site, within the Chilterns AONB and on a key gateway to the settlement of Tring, there is an inherent contradiction in how this policy would be implemented. Local precedent, further south-east along Aylesbury Road/Western Road, notably immediately to the east of the existing cemetery, is indeed of built form with relatively positive and open frontages to the roadway. If this openness of frontage, in accordance with the policy and local context, were replicated for the gypsy/traveller site, this would create a very prominent detracting visual presence on a key approach to Tring and within the AONB.
- 1.9 This potential flaw in the proposal appears to be recognised by the draft masterplan and draft allocation, which both note the need for landscape screening/softening for the gypsy/traveller site. Whilst reflecting sub-point ii) of point (e) of the policy, this would contradict sub-point i).
- 1.10 To be effective in minimising visual effects, including on the proposed open space usage and east-west movement corridor of land to the north and west, which is on rising ground; and particularly effects on landscape character, given the prominence of this location at the settlement gateway and its situation within the AONB, such screening would need to be comprehensive and unaffected by seasonal change. Whilst the existing hedgerow planting along Aylesbury Road provides some degree of screening, this would need to be supplemented and extended around the proposed gypsy/traveller site by very robust mixed native species planting, potentially augmented by landform which would need to be subtly graded to avoid appearing out of character in itself, requiring further land take. This extent of landscaping would potentially impinge on the capacity of the gypsy/traveller site but in any event, even if landform were provided, the screening, notably in winter, would not be likely to be effective for a number of years and even then, the access arrangements would be visible from the road and allow views into the Site from passing traffic and pedestrians.
- 1.11 In terms purely of landscape character, rather than simply views, the proposed forms and use of the gypsy/traveller site would, by their very nature, introduce temporary, transient elements into the AONB landscape, creating an unsettled character at odds with residential development and the tranquillity of the cemetery extension. The associated landscaping would be prominent, especially if landform were introduced, as would most likely be necessary to provide robust, year-round screening, as noted above. Such landscaping, whilst aiming to provide visual screening would conversely draw attention to the use of the land and would potentially be counter-productive in terms of effects on landscape character.

- 1.12 Furthermore, the character of the edge of the settlement, rather than flowing as a natural transition westwards into the AONB from existing and proposed residential development, through the 'green cemetery' and Public Open Space (POS) to the wider landscape; would instead be disrupted by an intensification of land use, built form and vehicle parking to the west of the cemetery.
- 1.13 It is therefore concluded that the proposed gypsy/traveller site would constitute a marked detracting element on the character of the AONB and the character and visual amenity of this gateway to the settlement.

#### **Local Allocation LA5 Draft Masterplan (October 2015)**

- 1.14 Figure 9: Opportunities and Constraints Plan shows the "opportunity to improve the existing urban edge" as a belt extending along the northern flank of Aylesbury Road. The proposed gypsy/traveller site would clearly contradict this aspiration, as well as the Constraint noted under section 4 that:

***"The development should conserve the special qualities of the western part of LA5, as this land is within the Chilterns Area of Outstanding Natural Beauty."***

- 1.15 In terms of the noted Opportunities, the existing urban edge would not be improved, nor would the proposal contribute to the open space in the western fields can also being enhanced to provide an attractive green gateway into Tring from the A41. Furthermore, the aspiration for native tree planting along Icknield Way and Aylesbury Road (including by the A41 roundabout), also seeks to ***"maintain views into and out of the site to connect the site visually with the surrounding countryside"***. The proposed gypsy/traveller site would clearly contradict this aspiration, as it would the broader Design Principles set out on page 34 of the draft masterplan which seek locally characteristic design.
- 1.16 It is likely that the proposed gypsy/traveller site would be contrary to the design aspiration set out in paragraph 5.36 to avoid artificial lighting in the western fields open space as there would inevitably be influence of lighting, either in the form of direct glare or light spill, from the proposed use.

#### **Site Allocations Pre-submission draft (January 2016), Policy LA5: Icknield Way, West of Tring**

- 1.17 For the reasons given, the proposed gypsy-/traveller site would fundamentally undermine the West of Tring Vision (drawn from the 2015 Masterplan), which states that:

***"The new development will be an attractive place in its own right..."***

***Its character and appearance will complement and enhance Tring and the Chilterns AONB.***

...

***The use and management of most of the western fields for open space will enhance the appearance and enjoyment of the Chilterns AONB. Landscaping will maintain and complement the green gateway and entrance corridor into the town.***

- 1.18 In addition to the adverse effect on the character of the AONB, notably as experienced at the Tring gateway and within the proposed western fields POS, for the reasons given above in relation to the disruption of the transition from the settlement to the wider landscape of the AONB, the proposed gypsy/traveller site would not provide the soft transition to the AONB set out in the Key Development Principles.

### **Green Belt**

- 1.19 The proposed gypsy/traveller site would be removed from the Green Belt. In terms of NPPF paragraph 85, point 6, there is currently no readily recognisable physical feature on the ground in this location to define the revised Green Belt boundary. This is unlike the previous draft proposed allocation which proposed the substantial hedgerow dividing the western and eastern areas of the Site as the revised Green Belt boundary. The two alignments are shown in **Figure 1**. There would therefore be a requirement for a robust and permanent Green Belt boundary to be created around the proposed gypsy/traveller site. The landscape design approach described above, to attempt to mitigate potential landscape and visual effects, would also need to provide a permanent Green Belt boundary.
- 1.20 In this respect, the contents of UK Government Planning Policy for Traveller Sites (August 2015), Policy E: paragraph 26 d) under Policy H are noted, namely that proposals should avoid:

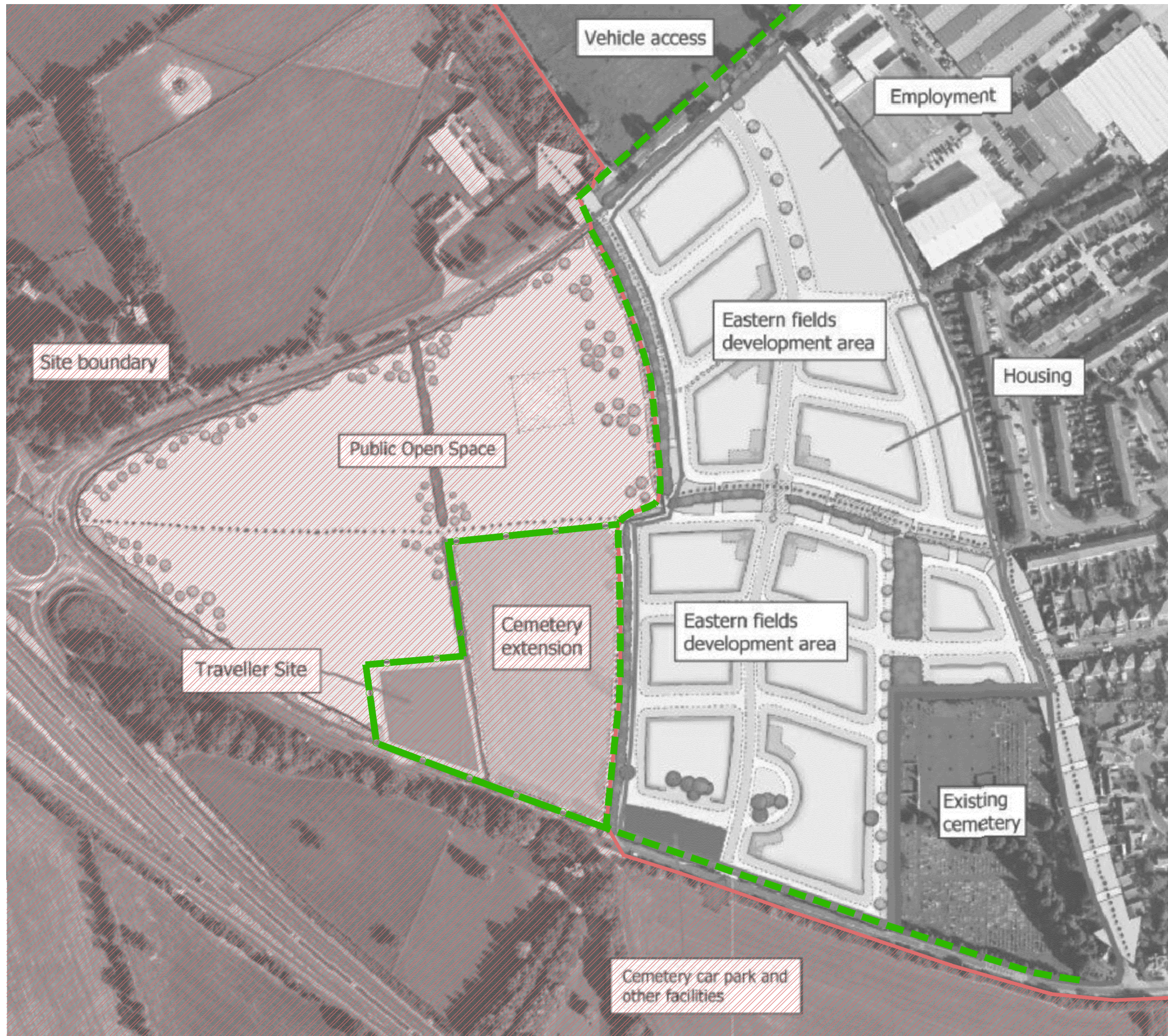
***"enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community."***

- 1.21 Whilst any perimeter landscape design associated with the proposed gypsy/traveller site would need to included predominantly soft, rather than hard landscaping, it is likely that the requisite level of screening given the AONB context, views from the adjacent area (including the proposed POS) and the appearance of the gateway to the settlement, would indeed create the situation that occupants appeared deliberately isolated from the rest of the community. Whilst this policy nominally refers to sites within the Green Belt, the requisite approach would run contrary to the underlying design principle set out in this policy.




**Conclusion**

- 1.22 In summary, it is considered that the proposed allocation of land within the Site for gypsy/traveller use would be harmful to visual amenity and landscape character, including that of the AONB; would contradict design principles within the Draft Masterplan and Draft Allocation; and, in an attempt to mitigate this harm, as well as creating a robust and permanent Green Belt boundary where there currently is none, would be contrary to government policy guidance on the landscaping of gypsy/traveller sites.





**Legend:**

-  Chilterns Area of Outstanding Natural Beauty  
Source : Natural England GIS Data Set
-  Proposed Green Belt boundary as shown in pre-submission draft allocation, 2014
-  Proposed Green Belt boundary as shown in pre-submission draft allocation, 2016

**Note:**  
 Drawing based on Dacorum Borough Council Site Allocations Pre-Submission document incorporating the Focused Changes 2016 - Policy LA5

Project  
**West of Tring**

Drawing Title  
**Policy LA5 - Revised Green Belt Boundary Plan**

Date	Scale	Drawn by	Check by
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Project No	Drawing No	Revision	
21156	L5	-	



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**APPENDIX 2 – LETTER TO MIKE EMETT 6TH SEPTEMBER 2016**





**brown & merry**

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HP10 0TJ

6<sup>th</sup> September 2016

**Our Ref: RAVC**

Dear Mike,

**RE: Dacorum site allocations examination- Tring West – LA5**

As requested, I write with comments on the likely impact of the placement of a gypsy traveller site adjacent to the boundaries of the above prospective development site of around 200 units on the western edge of Tring.

Whilst accepting that there is sometimes a difference between perception and reality, our opinion is that there is no doubt that prospective buyers will perceive that such a placement will serve to undermine the desirability of the location, and this in turn will impact negatively up saleability, revenues (and hence land value) and thus overall viability of the whole site.

Indeed, it is very likely that such a venture will cause a negative influence over the wider, already established, area as well.

Sequence Land & New Homes have been selling New Homes in the area for over 20 years, and recognise that overall surroundings and the characteristics of an area, play a vital role in determine whether someone buys a property or not and, for a variety of reasons, the perception of people, in this respect, will be negative, should such an establishment be included within the development boundary. Indeed, some buyers of course are deterred by the mere provision of social housing, and so this prospective traveller site will have a much greater impact.

[www.sequencehome.co.uk](http://www.sequencehome.co.uk)

Trading name of Sequence (UK) Limited. Sequence (UK) Limited is an Appointed Representative of Connells Limited who is authorised and regulated by The Financial Conduct Authority for advising on mortgages and non-investment insurance contracts (most Buy to Let mortgages are not regulated). Registered in England No. 4268443. Registered office: Cumbria House, 16-20 Hockliffe Street, Leighton Buzzard, Bedfordshire LU7 1GN. VAT registration number 500 2481 05





## Sequence Land and New Homes.

The Group has extensive office coverage in the Home Counties, acting as selling Agents for a range of New Developments. The advice is borne of a long experience in this market.

If you have any further questions please give me a call.

Yours Sincerely,

**Adrian Cole FRICS & Registered Valuer**  
**Consultant to Sequence Group**  
**New Homes**

**APPENDIX 3 – APPEAL DECISION APP/H0520/W/15/3004390**

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## Appeal Decision

Hearing held on 25 August 2015

Site visit made on 25 August 2015

**by Mark Dakeyne BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 02 December 2015**

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**Appeal Ref: APP/H0520/W/15/3004390**

**Land south of Straight Drove, Farcet, Peterborough, Cambridgeshire**

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Ernie Head against the decision of Huntingdonshire District Council.
  - The application Ref 1301209FUL, dated 9 October 2012, was refused by notice dated 19 September 2014.
  - The development proposed is two gypsy and traveller sites each with 2 caravans, an additional family room caravan and facilities blocks for 2 extended gypsy families.
- 

### Decision

1. The appeal is dismissed.

### Background and Main Issues

2. The Government published an updated version of Planning Policy for Traveller Sites (PPTS) on 31 August 2015, replacing the March 2012 PPTS. I have taken into account the new version of PPTS in my decision. These recent changes in national policy do not materially affect the issues under consideration or my conclusions and decision.
3. The application was refused by the Council for three reasons. However, when the decision notice was issued the Council made it clear that it would not pursue the third reason for refusal relating to Policy A of PPTS - the use of an evidence base and effective community consultation in planning and managing gypsy and traveller development.
4. The proposal is for a gypsy and traveller site. Although reference was made at the hearing to interest from a family who currently reside on a public site in Peterborough, I am considering the appeal on the basis that there are no named occupants. Taking into account this background the main issues are:
  - (1) whether the proposal would have reasonable access to local health services, primary schools and other facilities;
  - (2) the effect on the living environment and well-being of the residents of Conquest House; and,
  - (3) the provision and need for gypsy and traveller sites.

## Reasons

### *Access to Services*

5. The appeal site lies in open countryside some half a mile to the south-east of the village edge of Farcet. The PPTS indicates that new traveller site development in open countryside that is away from existing settlements should be very strictly limited but does not rule out sites in rural areas. Policy CS6 of the Council's Core Strategy<sup>1</sup> (CS) advises that gypsies and travellers should be accommodated in sustainable locations with good access by foot, cycle and public transport to services such as education and health but that account will also be taken of the rural nature of Huntingdonshire where the availability of public transport is limited. At the same time the policy recognises the preference of many gypsies and travellers for a rural location. Policy LP12 of the emerging Local Plan<sup>2</sup> (LP) advises that proposals for gypsy and traveller pitches will be supported where, amongst other things, the location has reasonable access to local health services and primary schools.
6. The site is reasonably close to Farcet<sup>3</sup> and could not be described as away from an existing settlement so would be in line with the approach set out in PPTS. Farcet has a primary school, public house and small convenience store/post office. The school is under a mile from the site. Yaxley, a larger settlement with a greater range of services, is farther away to the west. Yaxley Health Centre and the village shopping centre are some 2.7 miles from the site. Peterborough, with its large range of shopping, employment and service provision, lies a few miles to the north of the appeal site.
7. It is understood that some of the classes in Farcet Primary School are full but there are other primary schools and secondary education in Yaxley. The health centre is still accepting new patients. The proposal for a small site for two families would not place undue pressure on local infrastructure.
8. In order to access Farcet by foot, occupants of the site would need to walk along Straight Drove. The highway is unlit, without pavements and is subject to the national speed limit. That said forward visibility is good as the road name suggests. Local residents indicated that traffic can travel close to the speed limit, particularly during peak hours, when the road is used as a 'short cut' and vehicle movements increase. There is a highway verge but it is often overgrown. In view of the highway conditions and distance involved it is unlikely that journeys on foot would be the main way that occupants of the site would access Farcet. The route would not be particularly safe for younger children to walk unaccompanied by an adult. Similarly, although cycling along Straight Drove would be reasonably pleasant when traffic was light, it would be less desirable at peak times. There is no public transport service along Straight Drove.
9. Taking into account the above most journeys from the appeal site to access local services would be by private vehicle. But the distances involved would not be great and there would be the option to walk or cycle in daylight and in good weather conditions. Based on my own experience and having regard to other sites that have been given permission in the area or are identified in the

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<sup>1</sup> Huntingdonshire Local Development Framework Core Strategy Adopted September 2009

<sup>2</sup> Draft Huntingdonshire Local Plan to 2036: Stage 3

<sup>3</sup> About ½ mile from the village edge

Council's assessment of potential gypsy and traveller sites<sup>4</sup>, the site would be relatively well located in terms of access to services such as health and education as well as employment opportunities. This is in the context of Huntingdonshire being a predominantly rural district but the appeal site being fairly close to Peterborough's urban area.

10. In conclusion the proposal would have reasonable access to local health services, primary schools and other facilities. There would be compliance in respect of the specific issue with Policy CS6 balancing its various elements. That said Policy CS6 was based on the now defunct Circular 1/2006 and the policy that rural sites not subject to special planning constraints were acceptable in principle so less weight should be attached to it. But the proposal would accord with emerging Policy LP12 in respect of access to services and that policy has a reasonable degree of consistency with the PPTS.

### *Living Environment*

11. Conquest House, which provides supported living for residents with mental health issues and learning disabilities, lies to the south-west of the appeal site. The property provides accommodation for 14 people in the main house with a separate building, Alpine House, providing a home for 3 people. The use has a high staffing ratio so that around 1 member of staff is on site for every 2 residents other than overnight. Around 30 staff are employed overall.
12. Some of the residents have conditions such as autism and demonstrate challenging behaviours. A number have previously been in secure accommodation and Conquest House provides a stepping stone for those with the potential to integrate back into the community. It was put to me that changes in routine and environment can be difficult for some of the residents to deal with and would be likely to lead to extreme behaviour, hinder their recovery and provide additional challenges for staff. Tolerance levels are in some cases affected by mental health disorders.
13. The Conquest House buildings are in spacious grounds. There is a horticultural nursery and associated dwelling to the west of the access drive from Straight Drove but otherwise no other dwellings or commercial uses lie close to Conquest House. The farm and livery on Conquest Drove to the south-west are separated by intervening farmland. Although stables exist on the appeal site, activity associated with them is likely to have been low key. The site provides a tranquil environment for the residents in a relatively isolated setting.
14. The introduction of a residential use close to the site boundaries of Conquest House would be likely to lead to noise and disturbance where there was little before. Occupants of Conquest House and the proposed pitches coming across each other in unforeseen circumstances could lead to increases in challenging behaviour. Whilst the activity arising from two families, including the outdoor lifestyles favoured by gypsies and travellers, would not in itself be objectionable in most circumstances, the particular sensitivity of the adjacent residents is not a commonplace situation.
15. The Conquest House site is not secure so residents are to an extent free to come and go. They will come across situations beyond the confines of the site which may not be part of their daily routine. However, Conquest House and its

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<sup>4</sup> Strategic Housing Land Availability Assessment Update

grounds provide a relatively undisturbed refuge which would be altered with the appeal proposal.

16. There would be some separation and screening between the pitches and the grounds of Conquest House as there is a row of conifers and an overgrown strip of land near to the common boundary as well as an existing low slung building. Additional planting and screen fencing could be provided around the pitches. However, I do not consider that such mitigation would sufficiently reduce the impacts arising from the day to day activities of two families on the occupants of Conquest House. Siting the pitches in an alternative location on land owned by the appellant would constitute a different proposal which is not before me.
17. Based on the written evidence and the representations made at the hearing I conclude that there would be likely to be a significant adverse effect on the living environment and well-being of the residents of Conquest House. As a result there would be conflict with Policies CS6 and LP12 in this regard. In arriving at this conclusion I have given some weight to the possibility that agencies would be less likely to refer certain individuals with mental health issues to Conquest House if the environment was less tranquil. In due course this could affect staffing levels and the viability of the business and therefore the effective operation of the adjoining land use (Policy LP12 refers).
18. I accept that some of the impacts are difficult to predict. This is not a case where the proposal could be said to dominate the nearest settled community as referred to in PPTS and Policy LP12. But the sensitivity of the adjacent use warrants taking a precautionary approach particularly as there is likely to be many other potential gypsy and traveller sites in this large rural district without such uses nearby.

#### *Provision and Need for Sites*

19. The Cambridge Sub-Regional Gypsy and Traveller Accommodation Needs Assessment 2011 (GTANA) indicated a need for 53 pitches in Huntingdonshire in the period up to 2031. The District Council has projected this need forward to 2036 to coincide with the CS and LP timeframes leading to a requirement of 64 pitches for the period 2011-2036. These figures were not disputed at the hearing.
20. The GTANA also shows assessed needs for the periods 2011-2016 and 2016-2021. The need for this 10 year period is some 24 permanent pitches taking into account that 17 existing pitches had the benefit of only temporary planning permissions in 2011.
21. The Council indicates that the need will be primarily met through the creation of small family sites as a result of planning permissions. It is not intended to allocate sites in the emerging LP. The Council has met its target up to 2021 in that some 30 deliverable pitches have been granted planning permission since 2011. The Council is also able to demonstrate an up-to-date 5 year supply of deliverable sites. A recent appeal decision in Alconbury<sup>5</sup> confirmed that the identified needs of gypsies and travellers in the District were being met. The position was not disputed at the hearing and there is no reason for me to take a different view to that of the previous Inspector.

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<sup>5</sup> Appeal decision ref: APP/H0520/A/13/2203277 dated 3 July 2015

22. That said the needs identified in the GTANA should be seen as the minimum level of provision. Providing additional sites that meet national and local policy over and above the identified need would increase choice for gypsy and traveller families. Therefore, whilst I conclude that provision has met need, some weight should be given to the benefits of providing a further site in the area.

#### *Other Matters*

23. The site lies within a low-lying landscape described as Fen Margin<sup>6</sup>. The landscape is not as open as the Fen proper. The relatively small fields are interspersed with woodlands and trees and dotted with farmsteads, small groups of dwellings and the occasional commercial use such as the nearby nursery and a haulage yard to the north of Straight Drove nearer to the village.

24. The small grouping of caravans and associated development would not be out of character with these landscape characteristics. The proposed site would benefit from significant existing screening from roadside trees and other vegetation and would be seen against the backdrop of the greenery at Conquest House. Additional planting could take place around the pitches and on other land within the control of the appellant. Although the site would be more visible in the winter months when deciduous trees would not be in leaf, vegetation would still soften the development and filter views. The impact on the rural character and appearance of the area would be within acceptable bounds. In addition the site has no significant ecological value and is used for horse grazing not agriculture.

25. The access drive is currently of single vehicle width. The initial section of the drive could be widened to allow two vehicles to pass. I noted at the site visit that a couple of trees with structural defects would probably need to be removed to accommodate the wider access but the group of mature trees in good condition set back from the highway would not be affected if the access was widened to about 5.5m. Good visibility could be achieved at the junction of the access with Straight Drove provided the highway verge was cut regularly. The access improvements could be secured by condition.

26. Traffic movements over the narrow bridge at the eastern end of Farcet and through the village would not materially increase as a result of the small site. I note that improvements have recently been undertaken to provide a pavement and a one-way priority arrangement over the bridge and the 30 mph speed limit has been extended so that it is in force before the junction of Straight Drove with Kings Delph Grove.

27. The site itself would be some distance from the row of dwellings opposite the access known as Blackpool Hill Cottages. Vehicular movements out of the access would not be significant. Likewise there is no reason why the use would give rise to many vehicles leaving the access during the hours of dark such that headlights shining into the rooms in the dwelling opposite would be a great nuisance. The impact on existing residents in the area, other than those at Conquest House, would be acceptable.

28. Concerns about the propensity of the low lying site to collect water have been raised. However, there is no evidence that the site is at risk of flooding.

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<sup>6</sup> Huntingdonshire Landscape and Townscape Assessment June 2007



Proposals for dealing with surface water by soakaways have been formulated based on porosity tests. Foul drainage would be dealt with by a package sewage treatment, the next best option should mains drainage not be available as in this case. The drainage proposals would be satisfactory.

### **Conclusions**

29. The proposal would be in an acceptable location insofar as it would provide reasonable access to local health services, primary schools and other facilities. The provision of an additional site with the potential to serve as a settled base for two families would achieve many of the economic and social benefits set out within paragraph 13 of the PPTS, notwithstanding that the identified need for sites has been met. The proposal would accord with most of the provisions of Policies CS6 and LP12. Some positive weight should be attached to these factors.
30. The proposal would not cause significant harm to the character and appearance of the area and could be made acceptable in relation to highway safety and drainage through the use of planning conditions. These are neutral factors in the planning balance.
31. However, I have overriding concerns about the impact of the proposal on the residents of Conquest House which I conclude would outweigh the benefits of the scheme.
32. For the reasons given above I conclude that the appeal should be dismissed.

*Mark DaKeyne*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Barry Nicholls MRICS	Architectural and Surveying Services Ltd
Ernie Head	Appellant

### FOR THE LOCAL PLANNING AUTHORITY:

Councillor Eric Butler	Vice-Chair of Development Management Panel
Nigel Swaby	Development Management Team Leader

### INTERESTED PERSONS:

Paul Steward	Registered Manager Conquest House
Veronica White	Conquest House
Barry Hyland	District and Farcet Parish Councillor
Chris York	Farcet Parish Councillor
Susan Daniels	Local Resident
Charles Daniels	Local Resident

## **DOCUMENTS SUBMITTED AT THE HEARING**

1. Bundle of documents submitted by Mr Nicholls on behalf of the appellant